



WISCONSIN LEGISLATIVE COUNCIL

SEPTAGE DISPOSAL

Room 225 Northwest, State Capitol
Madison, Wisconsin

October 14, 2004
10:00 a.m. - 3:30 p.m.

[The following is a summary of the October 14, 2004 meeting of the Special Committee on Septage Disposal. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc/2004studies.htm>.]

Call to Order and Roll Call

Chair Ainsworth called the meeting to order and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. John Ainsworth, Chair; Reps. Alvin Ott and John Steinbrink; and Public Members Sandra Begalke, Bernard Deflorian, and Randy Renon.

COMMITTEE MEMBERS EXCUSED: Sens. Neal Kedzie and Robert Jauch; and Public Member Wally Thom.

COUNCIL STAFF PRESENT: Mark Patronskey, Senior Staff Attorney; Rachel Letzing, Staff Attorney; John Stolzenberg, Staff Scientist; and Julie Learned, Support Staff.

APPEARANCES: Duane Greuel, Environmental Specialist, Wood County; Scott Carmody, President, Carmody Data Systems; Ken Neu, Environmental/Health Products & Service; Greg Kester, Department of Natural Resources; and Roman Kaminski, Department of Commerce.

Description of Material Distributed

Memo No. 1, *Suggestions of Issues for Committee Discussion*

Mr. Patronskey said that Memo No. 1 would serve as the basis for the committee's discussion of suggestions for legislative recommendations.

Invited Speakers

Duane Greuel, Environmental Specialist, Wood County, said that he is a soil scientist, and works as an environmental specialist for the planning and zoning department in Wood County. Mr. Greuel submitted a document identifying problems with the private sewage system program on a statewide basis and suggesting solutions, including the following:

- Shift responsibility for licensing and training liquid waste carriers from the Department of Natural Resources (DNR) to the Department of Commerce.
- Address funding needs for private sewage system management programs by authorizing the county to assess fees through special charges and by diverting some of the groundwater surcharge fee for a statewide maintenance and reporting system.
- Require sewage treatment plants to provide capacity for disposal of septage and regulate the fees charged by sewage treatment plants.
- Require a higher level of education and training for liquid waste carriers.

Mr. Greuel commented that the DNR does not have trained soil scientists or onsite system specialists, and that the DNR does not place a high priority on the septage program.

Mr. Greuel discussed the problems that are arising because counties are developing different methods for recordkeeping regarding private system maintenance. He noted that septage haulers cross county boundaries and that dealing with different recordkeeping systems causes problems. He said that Wood County gets reports for septage that is pumped in other counties. He said that proposals for a statewide recordkeeping system have not yet been advanced beyond the discussion stage.

Mr. Greuel said that in the future, it may be possible for public utilities to be created for the purposes of managing private sewage systems and taking care of the septage hauling and disposal needs.

Scott Carmody, President, Carmody Data Systems, said that he has developed software for tracking private sewage system maintenance that has been adopted in 13 states and in Sydney, Australia. He emphasized that there is not a septage disposal problem in Wisconsin, but rather a communication problem. He distributed a series of slides to illustrate this point. Mr. Carmody focused on the information that is necessary for onsite system maintenance and septage disposal regulation, but that is currently not available. For example, he noted that there is no information on the total number of private sewage systems, the amount of septage produced by those systems and the ultimate handling of the septage. He also noted that we do not have information on the number of sewage treatment plants that are able to accept septage and where they are located.

Mr. Carmody also discussed the number of service providers and governmental entities that have a role in septage issues, and the inconsistency in regulation and enforcement. Mr. Carmody suggested using some of the funds collected for the \$25 fee for new sanitary permits to fund county and state efforts to enforce existing laws.

Representative Ott asked how long it would take to get a statewide data system regarding private system maintenance. Mr. Carmody said it would probably take 12 to 16 months. Mr. Carmody said that

the data system can be designed with a great deal of flexibility to allow for variations among counties. He said that not all individuals providing private system service may have computers. Ms. Begalke agreed that a statewide data system would be an advantage because she hauls septage in a number of counties.

Ken Neu, Environmental/Health Products & Service, Richfield, discussed an alternative for the treatment of septage. This alternative would consist of an aerobic treatment system designed specifically for septage. He noted advantages of this system, including the advantage of placing water back into the soil for groundwater recharge.

Ms. Begalke said that it is difficult for haulers to obtain the upfront costs necessary to set up facilities for the handling of septage. She described her effort to set up a storage facility, and spent \$14,000 on design costs, only to be rejected by the town board.

Discussion of Committee Assignment

Representative Ainsworth relayed to the committee several comments that Mr. Thom had forwarded to him. Mr. Thom was unable to attend the committee meeting. Mr. Thom said that the Rice Lake sewage treatment plant accepts all septage brought to the treatment plant. He said this is done on the honor system, with haulers issued a garage door opener, sampling done by the haulers, and a storage tank for septage that gradually introduces septage into the treatment plant. He said that septage disposal costs are paid in advance by a fee. He said that septage disposal is a viable revenue source for the sewage treatment plant. He expressed his opinion that a sewage treatment plant would need to have a capacity of approximately 1/2 million gallons per day in order to provide adequate septage treatment service.

Greg Kester, DNR, said that a sewage treatment plant with capacity of less than 1/2 million gallons per day should be able to treat septage with proper facilities. He noted that charges for septage disposal and sewage treatment plants differ widely across the state due primarily to the differences in age of the sewage treatment plants.

Representative Ainsworth commenced the discussion of Memo No. 1, *Suggestions of Issues for Committee Discussion*. [The headings below are from Memo No. 1.]

A. PUBLICLY OWNED TREATMENT WORKS (POTW)

1. Capacity for Disposal

Ms. Begalke said there should be a mandate for sewage treatment plants to provide capacity for septage disposal. Representative Ainsworth said that if there is such a mandate, there must also then be some way to assure that septage is taken to a sewage treatment plant. Mr. Kester said that for a mandate to work, it is necessary to have both receiving facilities at the sewage treatment plant and treatment capacity. Representative Ainsworth asked if there is any potential incentive for a community that provides septage capacity such as a grant or some advantage under the Clean Water Fund Program. Mr. Patronskey suggested that the state may assume some of the risk for a sewage treatment plant that builds capacity and facilities for receiving septage for disposal. He said that the committee could explore whether the loan from the Clean Water Fund might be forgiven in part if this occurs.

After further discussion, Representative Ainsworth observed that there did not appear to be consensus for a mandate for sewage treatment plants to provide capacity. Representative Ott returned to Mr. Neu's suggestion and asked whether there might be incentives to construct specific onsite treatment systems for septage, particularly where there is not a nearby sewage treatment plant. It was noted that a Clean Water Fund loan can only be made to a governmental unit. Mr. Patrosky said that town sanitary districts could provide these facilities and apply for Clean Water Fund loans.

Representative Steinbrink called the committee's attention to the issue regarding the inter-basin transfer of water. There are legal restrictions where water is taken from the eastern side of the subcontinental divide and disposed on the western side.

Representative Ainsworth directed staff to draft legislation requiring sewage treatment plants to account for septage disposal in future facility plans, and to provide Clean Water Fund loan forgiveness to a community that provides facilities and capacity for septage treatment but does not receive the waste.

Representative Ott asked about the need for addressing nutrient management issues on farms where septage is disposed. Mr. Kester said that the ch. NR 151 rules promulgated by the DNR regarding nutrient management exempt septage land spreading from the calculations under a nutrient management plan.

2. Cost of Disposal

Representative Ainsworth suggested that the cost guideline for septage disposal charges could be based on a percentage of the amount paid for disposal of waste by a connected user, such as 150% of that cost. Ms. Begalke said that some sewage treatment plant operators simply do not want to accept the waste and will charge a fee that is intended to discourage disposal of septage. After further discussion, it was agreed that staff should prepare legislation to enhance the state standards for allowable cost items to be charged by the sewage treatment plant, to authorize DNR to promulgate rules to modify or add to those standards, to place a cap on septage disposal fees equal to 150% of the cost of a connected user, and to allow DNR to review the charges imposed by a sewage treatment plant to determine if those charges are "reasonable" as required by the statute.

Ms. Begalke suggested that a decision-making panel could be created to make the judgment about the reasonableness of fees. Staff suggested that an appeal of an individual DNR staff person's decision could be taken to the Secretary of Natural Resources. Also, a panel could be convened to provide an advisory decision to the Natural Resources Secretary. It was agreed that staff would draft this proposal.

3. Control Over Disposal

After discussing these suggestions, the committee did not request draft legislation on this issue.

B. SEPTAGE DISPOSAL

1. Regulations

Ms. Begalke said that disposal of septage on the owner's property under an exemption to DNR review and approval of the disposal site is abused. Mr. Kester pointed out that the exemption is for site approval and hauler licensing, but that all disposal regulations apply. Representative Ainsworth suggested draft legislation to limit this exemption only to septic tank wastes and, alternatively, to place a volume limit on the exemption.

Mr. Kester said that the current statutes do not allow local ordinances that prohibit the disposal of sewage treatment plant sludge. It was agreed that staff would draft a proposal that clarifies the statutes if necessary to assure that these ordinances are not permitted.

After a discussion of the suggestion for DNR approval of all sites and a discussion of alternatives to the seven-day presumptive approval, Ms. Begalke objected to a longer approval time because disposal sites may become available to the hauler on short notice.

2. Administration and Enforcement

Mr. Patronskey explained that the present prosecution of septage disposal laws by district attorneys is an exception to enforcement provisions in other environmental statutes, which are enforced by the Attorney General. Ms. Begalke expressed concerns about enforcement of the septage disposal regulations by the Attorney General. It was agreed to draft this proposal for further discussion.

The committee engaged in an extensive discussion of the funding needs for county septage programs, including information and education. Ms. Begalke noted that the liquid waste carriers do not wish to collect fees for the counties. Representative Ott said that the state could develop a system of recordkeeping for all counties. Roman Kaminski, Department of Commerce, said that some counties have already developed recordkeeping systems for septic system maintenance. Mr. Kester said that a state recordkeeping system could be developed so that it would be consistent with county databases.

C. SEPTIC SYSTEMS

1. Disposal Options

In discussing this issue, it was noted that the management plan required for new septic systems under ch. Comm 83 addresses maintenance of the system and not disposal of septage from the system. In addition, permits for new holding tanks require the owner to submit proof of a contract with a septage pumper. The Special Committee asked for draft legislation to require information to be provided to property owners regarding septage disposal requirements and options.

2. Maintenance and Servicing

The committee's discussion of other issues in Memo No. 1 previously touched upon a number of the issues listed under maintenance and servicing. In discussing maintenance issues, it was observed

that ch. Comm 83 provides flexibility for the management of different types of septic systems. Following further discussion, the committee did not request any draft legislation on these issues.

D. STATE AND LOCAL REGULATION

Mr. Patronsky noted that the Department of Commerce offers a number of training programs on septic system operation and regulation. He also reported that he had examined the potential liability of counties for violations of groundwater standards for nitrates by county-approved septic systems. Given that the county is acting in a regulatory capacity, he was not aware of any liability that could be assigned to counties for these violations. With respect to additional staff for the DNR's septage program, Ms. Begalke indicated that the liquid waste carriers agreed on the need for more DNR staff but disagreed with the department on the amount of additional staff needed.

Following additional discussion of a statewide record system, the instructions to staff are to prepare draft legislation that requires DNR and the Department of Commerce to develop such a system for records of all activities related to installation and servicing of onsite systems for use by these agencies, counties, and septage haulers. The system is to be compatible with existing county electronic recordkeeping systems.

Other Business

There was no other business brought before the committee.

Plans for Future Meetings

The next meeting of the Special Committee will be held on *Tuesday, November 16, 2004, at 10:00 a.m., in the Legislative Council Conference Room, One East Main Street, Suite 401, Madison.*

Adjournment

The meeting was adjourned at 3:30 p.m.

MCP:JES;jal;ksm