WISCONSIN STATE REPRESENTATIVE
Louis J. Molepske, Jr.
71ST ASSEMBLY DISTRICT

TESTIMONY ON ASSEMBLY BILL 372
For the Senate Committee on the Environment
March 16, 2010

Chairman Miller and fellow members of the Senate Committee on the Environment:

In 2003, Department of Natural Resources convened a broadly-based group of stakeholders to discuss and work on identifying tools for decreasing inappropriate burning and dumping, and developing strategies to approach these issues collaboratively.. This group, which was composed of representatives from business, agriculture, academia, environmental and governmental organizations created a report that outlined a number of recommendations to change historic and current practices in regard to garbage and to protect our fragile environment and property values.

One of the recommendations was:

Backyard dumping exemption. We recommend legislation to rescind the present statute that exempts backyard dumping from all state regulation.
Backyard dumping affects property values and is an environmental and public threat. Proper solid waste disposal alternatives are available to Wisconsin residents. A decrease in illegal open burning could lead to an increase in backyard dumping, which is presently entirely unregulated. **AB 372 is based upon this recommendation.**

Background:

- Disposal of garbage generated from a single family residence is **entirely exempt from regulation** under current state law as long as it is disposed of on the same property on which it's generated. (Note: Under state law, garbage burning is defined as solid waste treatment, it's not defined as disposal. Therefore, burning of garbage from a single family residence is not exempt from regulation.)
- Dumping and burning garbage have been part of Wisconsin's history and culture.
- Thirty years ago, we had many open dumps in Wisconsin where open burning of trash was an accepted daily practice.
- Since then, we've closed all the open dumps, built modern engineered landfills, developed our nationally-recognized recycling program and seen waste collection services grow to the point that they are now available statewide.
- Our waste streams now contain more plastic and other synthetic materials that are unsafe to burn.

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Some examples of items disposed under this exemption:

Lead-Acid Batteries
Pesticides
Oil Filters
Fluorescent Lighting
Needles/Syringes
Mercury-Containing Devices
Alkaline/Lithium/Cadmium Batteries

Problems with unregulated dumping:

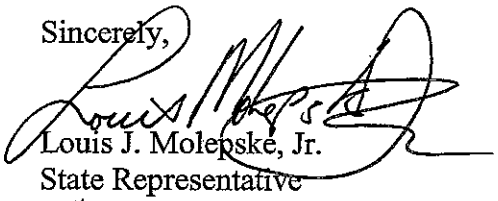
- Poses Health Risks—provides ideal breeding grounds for disease-carrying mosquitoes and rodents.
- Lowers property values—property values are lower in areas that have litter and dumping problems.
- Discourages investment—investors are less likely to invest in these areas; development is hindered.
- Attracts criminal activity—criminals tend to migrate in the areas that appear to be unkept, which increases the problem.
- Encourages additional dumping—most illegal dumpers and litterers prefer to dump in areas that already have dumped items.
- Contaminates waterways and drinking water.

The bill does not affect any type of household composting.

The DNR would refer prosecution of cases to the DOJ, as this is a violation of environmental law. After speaking with DNR representatives, it is their position that the number of these cases would be relatively small, in the hundreds of incidents per year, as compared to instances of illegal burning, which numbers in the thousands of complaints each year and would be better handled by the DOJ.

Again, thank you for holding a public hearing on AB 372 and allowing me to deliver testimony. I am open to answer any questions that you may have.

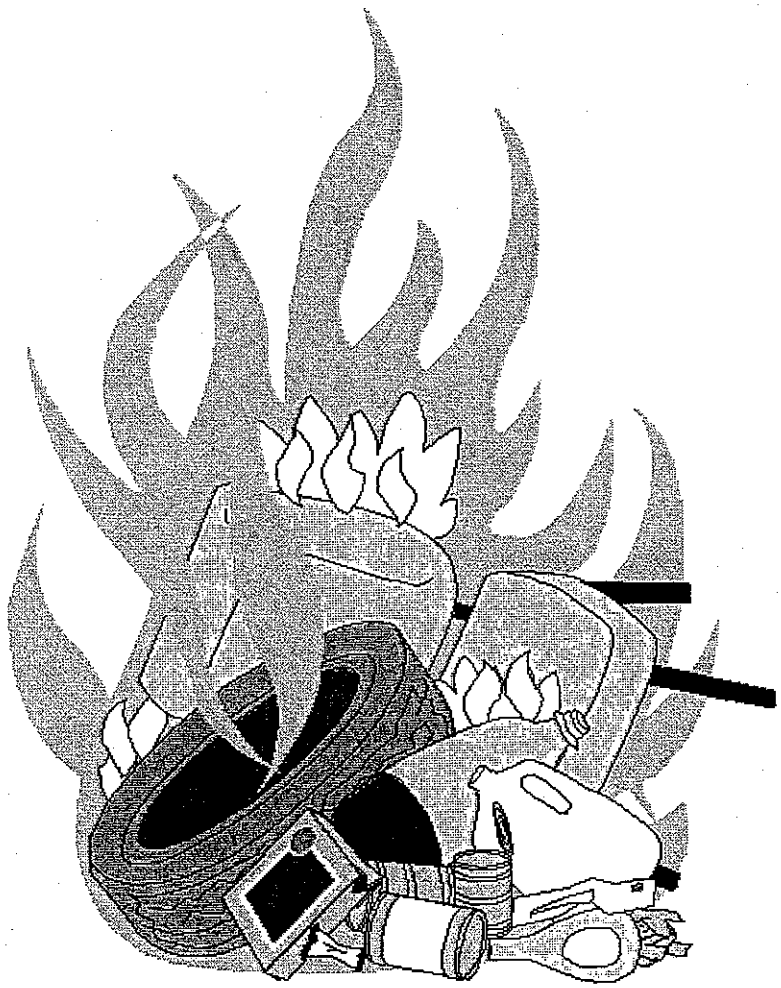
Sincerely,



Louis J. Molepske, Jr.
State Representative
71st Assembly District

OPEN BURNING AND BACKYARD DUMPING

Report and Recommendations of the Stakeholder Steering Group



October 2003

Wisconsin Department of Natural Resources
PUB-WA-673-03

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A. Recommendations of the Stakeholder Steering Group

Department of Natural Resources convened a broadly-based group of stakeholders to discuss and work on identifying tools for decreasing inappropriate burning and dumping, and developing strategies to approach these issues collaboratively. A "Steering Group" (comprised of DNR and external representatives) and three "Topic Groups" (one for residential wastes, one focused on small businesses, and one on farm/agricultural wastes) were formed to conduct this important work. This report results from that effort.

This section contains the overall perspectives and recommendations of the Steering Group. The committee accepts the status of the current law as stated page 4, paragraph B1. The Committee does seek to achieve public practice and compliance with the current law as stated. See Appendix 4 for detailed recommendations that were developed by the three Topic Groups. Many of the detailed recommendations in the appendix cover particular waste types or particular problems that are more specific than the recommendations in this section. In implementing the Steering Group recommendations that follow, please refer to the detailed recommendations in Appendix 4 for further consideration and analysis.

1) <u>Comprehensive program</u>. We recommend a comprehensive program of education, infrastructure development and regulation that's implemented collaboratively by all involved stakeholders with leadership at the state level. Three elements have been found that will influence a person's decision to burn or dump their wastes on-site or manage them in a more appropriate manner: **education, infrastructure,** and **regulatory tools**. A well-balanced mixture of all three elements will be needed for effective implementation of programs/strategies that reduce the open burning and backyard dumping of wastes.

- **Education materials** need to be designed to target several audiences:
  a. Public officials/decision makers,
  b. The general public,
  c. Targeted special audiences for particular messages (dependent upon the particular issue), and
  d. Teachers and students.
- **Infrastructure and systems development** are key elements to provide reasonable alternatives to burning and backyard dumping.
- Improved **regulatory tools** are needed to deal with the worst offenders who knowingly violate the law.

Collaborative efforts by all stakeholders are needed (e.g. state agencies, the University of Wisconsin - Extension, local governments, private organizations and individual citizens). **We recommend that DNR provide the leadership to assure that the collaboration and coordination occurs.**

2. <u>Budgetary constraints</u>. We recommend that education and regulatory strategies be tempered by budgetary reality and competing priorities. State and local budgets and staffing are severely strained and there are many competing priorities for education and regulatory efforts. Any additional efforts in this area have to consider funding constraints and legislative directives regarding use of existing resources. Scarce resources need to be allocated strategically. To ease budgetary constraints, collaborative efforts between all stakeholders and programs should be used.

3. <u>Education efforts</u>. We recommend that broad partnerships and communications channels be developed to provide clear and consistent messages and to avoid duplication of efforts. Use of local governments and especially "responsible units" for recycling should be encouraged for local education efforts. There's a particular need for educational materials related to construction and demolition wastes in addition to information related to burn barrels and open burning generally. Educational tools need to be developed at the state level and provided to local governments and others.

4. <u>Model ordinance</u>. We recommend that the DNR develop a model ordinance containing suggestions and options for local governments to regulate open burning at the local level. Effective regulation of open burning requires a combination of state and local efforts. Municipalities may choose to prohibit burning of some materials that the state would otherwise allow. A model ordinance would help local governments make decisions and would help assure that ordinances reinforce state law. A model ordinance can also be a very effective education tool.

5. <u>Infrastructure</u>. We recommend that state and local recycling programs be the primary vehicle for providing improved systems and infrastructure as alternatives to open burning and backyard dumping. Several specific recommendations were provided by the Topic Groups. Staff, expertise and resources to address those recommendations appear to reside largely with state and local recycling programs.

6. <u>Agricultural Plastics</u>. We recommend an effort at the state level to develop workable efficient systems for the collection and recycling or disposal of agricultural plastic films and bags such as silage bags. These widely used agricultural plastic products can be very bulky making them difficult and inconvenient to properly dispose. Farmers need convenient low cost alternatives in addition to information about regulations.

7. <u>Citation authority</u>. We recommend that the Legislature grant DNR authority to issue citations for open burning that's illegal. We further recommend that the DNR work collaboratively with stakeholders to develop a consensus bill that would be ready for introduction early in the next session (beginning 01/05) of the Legislature. Presently DNR's only enforcement authority is to refer a violator to the Department of Justice. A more efficient alternative is needed as a deterrent and to provide credibility. Features that ought to be included in the bill include:

- A delayed effective date of approximately one year to allow public notification and dissemination of educational materials. The date should be specified in the law.
- Specified forfeitures for first offenses and subsequent offenses. A minimal forfeiture for a first offense for burning small quantities of normal household wastes.
- Maintenance of the current ability of municipalities to adopt and enforce ordinances that are at least as stringent as state open burning laws.

8. <u>Backyard dumping exemption</u>. We recommend legislation to rescind the present statute that exempts backyard dumping from all state regulation. Backyard dumping affects property values and is an environmental and public threat. Proper solid waste disposal alternatives are available to Wisconsin residents. A

decrease in illegal open burning could lead to an increase in backyard dumping, which is presently entirely unregulated.

9. Clarify and simplify regulations. We recommend that DNR regulations on open burning be reviewed and amended for consistency, clarity and simplicity. The current state rules are very difficult to explain because of the many exemptions from the general prohibition on open burning. Air rules and solid waste rules are similar but have subtle differences further complicating easy explanation and understanding. Public education efforts require simple, clear and consistent regulations. We're recommending this for simplification and clarification purposes only, not for substantive change to the existing regulations.

10. Citizen and stakeholder involvement. We recommend additional public input on open burning and backyard dumping and on the follow-through to this report. Citizen involvement needs to be an integral part of state and local efforts to curb open burning and backyard dumping. Additional input on follow-through is needed in the short term as well as a continuing commitment to citizen involvement is needed in the long term. Public involvement and public education efforts should be linked.

B. Background / Problem Description

1. The Open Burning Problem in Wisconsin

Under Wisconsin law, it is illegal to burn wet combustible rubbish, garbage, oily substances, asphalt, plastic, rubber or treated or painted wood. It's also illegal to burn paper and cardboard that have been separated for recycling. Unless prohibited by local ordinance, burning clean untreated wood is legal. It's also legal to burn dry grass, leaves, brush and non-recyclable paper and cardboard products on the property on which they're generated. Although burning trash has been illegal under state law for over 25 years open burning and backyard dumping is a significant problem in Wisconsin and is difficult to enforce.

a) Open Burning is the **number one source of citizen complaints** to the Department of Natural Resources on air pollution matters according to the DNR Bureau of Air Management.

b) Open Burning is the **number one cause of wildfires** in Wisconsin according to the DNR Division of Forestry.

c) Open Burning is the **number one uncontrolled source of dioxin emissions** according to the DNR Bureau of Air Management.

d) Disposal of garbage generated from a single family residence is **entirely exempt from regulation** under state law as long as it is disposed of on the same property on which it's generated. (Note: Under state law, garbage burning is defined as solid waste treatment, it's not defined as disposal. Therefore, burning of garbage from a single family residence is not exempt from regulation.)

Dumping and burning garbage have been part of Wisconsin's history and culture. Thirty years ago, we had many open dumps in Wisconsin where open burning of

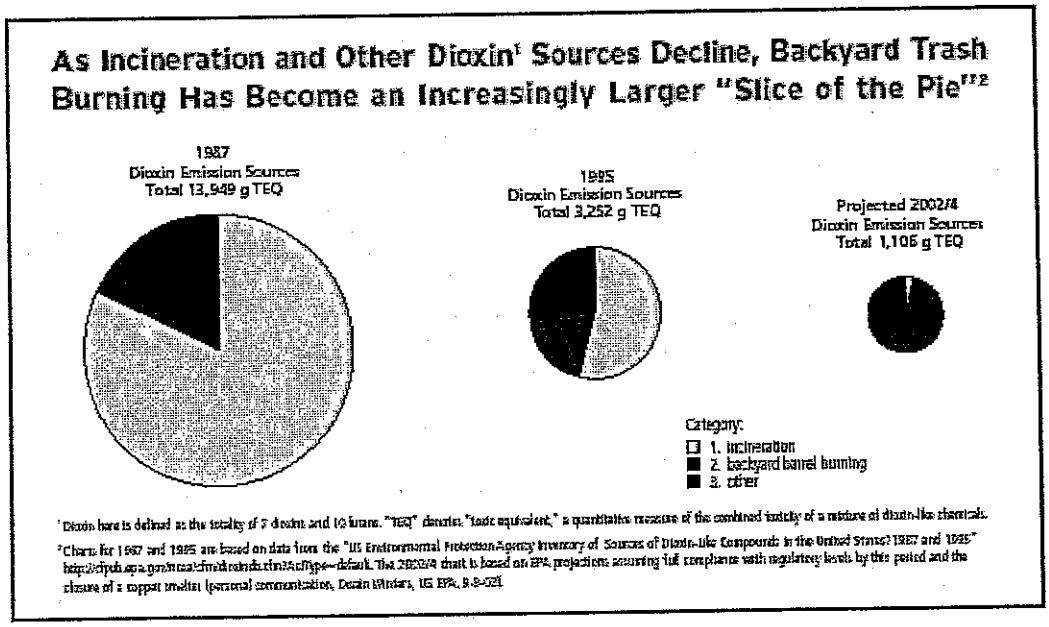
trash was an accepted daily practice. Since then, we've closed all the open dumps, built modern engineered landfills, developed our nationally-recognized recycling program and seen waste collection services grow to the point that they are now available statewide. During that same time the volume of waste that we generate has increased dramatically. Our waste streams now contain more plastic and other synthetic materials that are unsafe to burn. Disposing of those solid waste materials in one's own backyard can cause pollution problems and can affect property values.

Not all open burning is illegal or even a bad idea. Prescribed burning of lands for wildlife habitat, promotion of certain plant species or preventing wildfires is often necessary when there's no other reasonable alternative. In those cases, the burning should be conducted when weather, wind and moisture conditions will minimize air emissions and human exposures to the smoke. Conversely, burning some materials, even when legal, may be a bad idea. For example, leaves and other wet vegetative materials may burn at low temperatures and produce large amounts of particulates and other emissions. Composting is a far better alternative for those materials.

2. Open Burning as a National Problem: The open burning problem is described by the Burn Barrel Subgroup formed under the Great Lakes Binational Toxics Strategy as follows: (see their website at http://www.c2p2online.com/main.php3?section=137&doc_id=289&session=)

- In many parts of North America, urban as well as rural, people burn their domestic garbage on their residential properties. In agricultural areas, feed bags and other commercial waste packaging are also burned. The garbage is commonly burned in a 55-gallon steel drum or "burn barrel". Other terms for this practice are "backyard burning" or "open burning". Recent studies (EPA 1999) have indicated that this practice, which is more prevalent in rural areas, is a significant anthropogenic source of dioxins and furans.

- The United States Environmental Protection Agency (EPA) Dioxin Re-Assessment estimates that 19 percent of total quantifiable annual releases for 1995 of dioxins/furans are generated by residential burning of household garbage. This figure is supported by EPA emission tests on the burning of household/commercial waste in barrels. The Lake Superior Lake-wide Management Plan (LaMP) has identified this source as a priority target for achieving zero emissions. Environment Canada's February 2001 Inventory of Releases of Dioxin identifies Burn Barrels as the third largest source (nationally) behind conical burners and medical waste incinerators; and also fourth (in Ontario) behind medical and hazardous waste incinerators, and iron sintering. As control of incinerators is realized, then the relative percent generated from burn barrels is expected to increase and become the dominant source of dioxins/furans. The following graphic was produced by the Chlorine Chemical Council based upon U.S. EPA data:



- For dioxin, the pathway into humans is generally not from breathing the smoke from a neighbor's barrel. The air-to-leaf pathway for dioxin, followed by bioconcentration in animal fat is generally accepted by the scientific community as the predominant pathway to most humans. For other pollutants, such as fine particulates and polyaromatic hydrocarbons, inhalation is the pathway of greatest concern. Since the majority of dioxin intake to humans comes from food sources (especially animal fats and dairy products), then dioxin emissions from burn barrels impact a wide population when they land on feed crops and are concentrated in the bodies of farm animals. Because of the predominant distribution of burn barrels in agricultural areas, they may contribute a disproportionate amount of the overall dioxins in meat /dairy foods.

- There is always enough chlorine in the waste stream, even from natural materials such as salt and wood, to generate dioxins when garbage is burned. Burn conditions, such as operating temperature, seem to be a better indicator of dioxin emissions than chlorine content of waste. The smoldering, high particulate combustion of open burning offers ideal conditions for dioxin formation.

- There is a high degree of variability in dioxin emissions from burning trash, inherent in the chaotic nature of uncontrolled combustion. U.S. EPA experiments have shown that even in the absence of PVC, the rate of dioxin production is similar to that in the burning of normal trash. Only when PVC content is increased significantly (i.e. greater than 7 %), did it have an effect on increasing dioxin production. Several other factors were also found to increase dioxin production including the presence of inorganic chlorine, the addition of small amounts of copper, and retarding burning conditions by moistening the trash. There is no single activity, short of eliminating this practice of burning, that can significantly reduce the dioxin emissions by the magnitude that is required. At the same time, reducing the overall amount of garbage burned (i.e. by recycling) can reduce emissions.

- Emissions of other air pollutants associated with burn barrels include volatile organics (such as benzene), fine particulate matter (PM10) and poly aromatic hydrocarbons (PAH) (such as benzo(a)pyrene), and heavy metals. For many of these other pollutants, the principal pathway into humans is directly from inhalation of smoke from burning garbage. The resulting ash from the burning can also contain toxics.

- Uncontrolled burning, including burn barrels can also be a major contributor to igniting wildfires. In Minnesota, it was identified that 35% of wildfires were started by uncontrolled burning of garbage, brush and grass/stubble.

- Various studies have been undertaken to assess the prevalence of barrel burning. "The Summary Report on Burn Barrels: a survey of residents of Northeast Minnesota and Northwest Wisconsin", January 2000, commissioned by the Western Lake Superior Sanitary District (WLSSD) indicated that 28% of residents polled (rural and fringe of city populations) burned their garbage. A Canadian survey, based on the WLSSD survey, was carried out in March 2001. The "Household Garbage Disposal and Burning - Ontario Survey" indicated that 24% of rural and small city residents polled burned their garbage. Of those that burned garbage, they were as likely to burn in a wood stove or open pit as in a barrel. The studies also assessed people's attitudes as to why they burn garbage, and what would convince them to stop burning. In both surveys, a large minority indicated that nothing would stop them from burning garbage. Based on this information, there is a recognition that enforcing regulations is required along with education and alternatives to burning. There is no technological fix, such as burn barrel design or separation of waste for burning - the solution, in very simple terms, is for people to stop burning garbage.

C. How this Stakeholder Involvement Effort Began.

The stakeholder involvement effort on open burning and backyard dumping stemmed from two related efforts within the Department of Natural Resources.

First, an Open Burning Team was formed within DNR about three years ago for the purpose of internal program coordination on open burning efforts and efforts to pass legislation on citation authority. It became evident during those deliberations that external collaboration was necessary to gain understanding and support for the need for citation authority.

Second, the Waste Management program in the Department completed pilot work on a policy development environmental management system (EMS) in a consensus-based partnership effort with external stakeholders. The partners outlined a vision of "Moving Towards Zero Waste" and they identified four priority strategic policy goals for the program. The four priority goals were 1) to minimize and prevent waste, 2) to minimize the potential for environmental impacts of landfills, **3) to eliminate backyard burning and dumping,** and 4) to develop effective education programs to support the previous goal areas.

This effort stems from the third goal regarding the elimination of backyard burning and dumping.

D. Formation and Membership of the Steering Group and Three Topic Groups.

The DNR wanted to convene a broadly-based group of stakeholders to discuss and work on identifying tools for decreasing inappropriate burning and dumping, and developing strategies to approach these issues collaboratively. On January 24, 2003, DNR Secretary Scott Hassett letter sent a letter to statewide associations inviting them to participate in a stakeholder process on open burning and backyard dumping (see Appendix 1). A "Steering Group" (comprised of DNR and external representatives) and three "Topic Groups" (one for residential wastes, one focused on small businesses, and one on farm/agricultural wastes) were formed to conduct this important work.

A well-balanced range of perspectives and areas of expertise was included on all the groups. The 14-member Steering Group was composed of representatives of important statewide associations with an interest in this topic plus managers from involved DNR programs.

Steering Group Membership

Person	Representing
Jennifer Feyerherm	Sierra Club Midwest Office
Gail Frie	Vernon County Waste Mgt. Administrator
Janet McMahon	American Lung Assoc. of Wisconsin
Richard Stadelman	Wisconsin Towns Association
Mark O'Connell / Josh Bindl	Wisconsin Counties Association
Peter Peshek	Wis. Institute of Scrap Recycling Industries
Paul Zimmerman	Wisconsin Farm Bureau Federation
David Lundberg	DNR Waste Management Leader WC Region
Wendy Weisensel	DNR Communication & Education Bureau
Rick Wulk	DNR Air Management Leader NE Region
Martin Burkholder	DNR Bureau of Air Management
Trent Marty / Blair Anderson	DNR Division of Forestry
Kevin Kessler	Co-Leader, DNR, Air and Waste Division
John Melby	Co-Leader, DNR, Waste Mgt. Bureau
Barbara Hummel	Consultant and Facilitator

The Topic Groups were comprised of invited representatives reflecting a balance of statewide associations, state and local government agencies, educational institutions, private citizens and DNR program representatives. The Topic Groups were formed around particular types of wastes to provide focus on the particular issues associated with those waste streams. (See Appendix 2 for a list of Topic Group members.)

E. Group Charge.

The charge of the Steering Group and the three Topic Groups was: 1) To bring stakeholders together to discuss illegal burning of waste and backyard disposal of waste, 2) To identify tools for decreasing inappropriate burning and dumping, and 3) To collaboratively develop strategies to approach these issues. The Topic Groups were charged with making recommendations to the Steering Group. The Steering Group was asked to integrate the reports and recommendations from the three Topic

Groups and to forward a report making recommendations to DNR and the Natural Resources Board. The Topic Groups completed their efforts in June and July 2003. It is expected that the Steering Group's final report will be presented to the Natural Resources Board by the end of 2003.

The groups were asked to recommend a range of strategies (education/information, regulatory tools, and systems development/infrastructure) for implementation within the next 5 years that will address issues that they identified related to open burning and backyard dumping.

F. Stakeholder Group Process.

The Steering Group met on April 1, August 12 and October 1, 2003 in Madison, Wisconsin. Each of the three Topic Groups met twice in June and July of 2003. Based upon advice from the Steering Group, the Topic Groups did not meet in Madison. They met in Stevens Point, Plover and Wisconsin Rapids, Wisconsin. The final product from each of the topic groups was a prioritized list of detailed recommendations. The recommendations from each Topic Group were in final reports that were transmitted to the Steering Group prior to the August 12th meeting. The process used to develop the recommendations of the each Topic Group is summarized below.

F.1. Identification of Issues. After an initial discussion of the open burning and backyard dumping problem, Topic Group members discussed issues that were specific to their topic. They started with the list of issues supplied by the Steering Group, added additional issues and then combined and clarified issues that had been identified. Finally, each of the Topic Groups used a voting process to decide which issues they were most interested in pursuing further.

F.2. Categories of Strategies. Each Topic Group discussed strategies to address the most important issues that they had identified. Members were asked to recommend a range of strategies in three categories:

- education/information,
- regulatory tools, and
- systems development/infrastructure.

Members were also asked to consider a range of short term and longer-term strategies for implementation within the next 5 years. Finally, each Topic Group was asked to consider an appropriate mix of entities that recommendations should be directed to - - state government, local government, associations, educational institutions and the private sector.

F.3. Proposing Actions to Address Issues. After identifying the most important issues of interest for their topic area, the members of each Topic Group proposed actions or activities to address the issues. A worksheet was used to record and characterize information regarding each recommended action. (See Appendix 3).

F.4. Identifying High Priority Recommendations. After developing a list of recommended actions to address open burning and backyard dumping of wastes related to their topic, each Topic Group discussed each recommended action for clarity and accuracy. Topic Group members then voted on which priority

recommendations were their highest priorities. Each member received 4 priority votes with instruction that they could use only one vote per item. They also received 2 optional "poison" votes to indicate items that they didn't want or didn't like as written. Recommendations were arranged in priority order according to the number of high priority votes received for each. Recommendations that received at a vote from at least 1/3 of the Topic Group members were considered a "priority recommendation" with respect to the final Topic Group report. A summary of the detailed priority recommendations in order of priority is contained in Appendix 4.

G. Acknowledgments.

The thoughtful input and participation by all members of the Steering Group and of the three Topic Groups is gratefully acknowledged. DNR was unable to offer reimbursement to public members for any of their time, travel expenses or mileage. This stakeholder involvement effort on open burning and backyard dumping of solid wastes was highly successful only because of the willingness of participants to donate their time, talents and perspectives. Participants exhibited great respect for each other and were willing to work together bridging their different perspectives.

H. Appendices.

Appendix 1	1-24-03 Letter from Secretary Hassett
Appendix 2	Membership Lists - Steering Group and Topic Groups
Appendix 3	Topic Group Worksheet
Appendix 4	Topic Groups Detailed Recommendations - Grid

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

WISCONSIN
DEPT. OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

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Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
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Appendix 1

January 24, 2003

(inside address)

Dear (name):

I'm writing to you and several other important statewide associations to ask for your assistance and participation in a very important environmental policy issue facing the state of Wisconsin - - backyard dumping and illegal open burning of wastes.

Illegal open burning of solid wastes is a major environmental problem in Wisconsin. It is one of our largest sources of dioxin emissions, a chemical infamous as a potent carcinogen. Illegal open burning is also the number one cause of citizen complaints to the Department on air pollution matters and is the number one cause of wildfire in our state.

Dumping and burning garbage have been part of Wisconsin's history and culture. Thirty years ago, we had many open dumps in Wisconsin where open burning of trash was an accepted daily practice. Since then, we've closed all the open dumps, built modern engineered landfills, developed our nationally-recognized recycling program and seen waste collection services grow to the point that they are now available statewide. During that same time the volume of waste that we generate has increased dramatically. Our waste streams now contain more plastic and other synthetic materials that are unsafe to burn. Disposing of those solid waste materials in one's own backyard can cause pollution problems and can affect property values.

The Waste Management program in the Department recently completed pilot work on an environmental management system (EMS) in a consensus-based partnership effort with external stakeholders. The partners outlined a vision of "Moving Towards Zero Waste" and they identified a strategic policy goal to eliminate backyard burning and dumping. We want to examine backyard dumping and illegal burning holistically. For example, we don't want to target illegal open burning only to find that we've increased backyard dumping problems.

Behavioral change depends upon educating people on why open burning and backyard dumping are threats to them and to their neighbors. They're going to have to better understand what's legal and what's illegal to burn and how dumping affects their property. Homeowners and businesses that dump or illegally burn in their backyards need safe, reasonable and economically feasible alternatives to open burning and backyard dumping. Presently the department lacks adequate enforcement tools for egregious illegal burning issues. We're hoping that the Legislature will examine that issue in their next session. We need your help to develop the variety of tools that will be needed to successfully address backyard dumping and illegal open burning of wastes.

One of the fundamental tenets of our EMS for waste management policy is that in the future policy development will be a joint internal/external process involving stakeholders early in the process. We're anxious to convene a broadly-based group of stakeholders to discuss and work on identifying tools for decreasing inappropriate burning and dumping, and developing strategies to approach these issues collaboratively. We intend to form a steering group (comprised of DNR and external representatives) and three focus groups (one for residential wastes, one focused on small businesses, and one on farm wastes) to conduct this important work. The plan would call for the steering group meeting two times:

once at the beginning of the process (late this year) and once at the end of the process to synthesize results from the focus groups for the final report. The focus groups would have two half-day meetings the late spring of 2003. We're anticipating that the entire process would be completed by late summer of 2003. A list of statewide associations that are receiving this letter is attached.

We are most interested in having your organization participate in helping shape this important effort involving development of policy and other tools to address this issue. We're also anxious to "get the word out" about open burning and backyard dumping problems. We'd welcome an opportunity to meet with your board of directors at any time or to make a presentation to your association membership in the coming months.

A Department representative will be contacting you within approximately two weeks to discuss your reaction, your interest in participating and your suggestions. In the meantime, if you have questions or need additional information, please contact Kevin Kessler or John Melby, our co-leaders for this effort, at 608-266-5207 and 608/264-8884 respectively.

Thank you for your interest and consideration.

Sincerely,

Scott Hassett
Secretary

Attachment

Open Burning / Backyard Dumping
Recipient Organizations

1) 1000 Friends of Wisconsin and Land Use Institute
2) Associated Recyclers of Wisconsin
3) Wisconsin Counties Association
4) Wisconsin County Code Administrators
5) Wisconsin Counties Solid Waste Management Association
6) Environment Wisconsin, Inc. (with cc's to John Muir Chapter Sierra Club, CBE, Environmental Decade, and Madison Audubon)
7) Wisconsin Association for Environmental Education
8) Wisconsin Environmental Health Association
9) Wisconsin Farm Bureau Federation
10) Wisconsin State Fire Chiefs Association (with cc's to Wisconsin Firefighters Association and Wisconsin Badger Firemen's Association)
11) League of Women Voters of Wisconsin
12) American Lung Association of Wisconsin
13) Wisconsin Manufacturers and Commerce
14) The Nature Conservancy, Wisconsin Chapter
15) National Solid Waste Management Association - Midwest Region
16) Wisconsin Public Health Association
17) Solid Waste Management Association of North America - Wis. Chap.
18) Wisconsin Towns Association

Steering Group Membership

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Jennifer Feyerherm	Sierra Club Midwest Office
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Richard Stadelman	Wisconsin Towns Association
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Peter Peshek	Wis. Institute of Scrap Recycling Industries
Paul Zimmerman	Wisconsin Farm Bureau Federation
David Lundberg	DNR Waste Management Leader WC Region
Wendy Weisensel	DNR Communication & Education Bureau
Rick Wulk	DNR Air Management Leader NE Region
Martin Burkholder	DNR Bureau of Air Management
Trent Marty / Blair Anderson	DNR Division of Forestry
Kevin Kessler	Co-Leader, DNR, Air and Waste Division
John Melby	Co-Leader, DNR, Waste Mgt. Bureau
Barbara Hummel	Consultant and Facilitator

Residential Waste Topic Group Membership

Person	Representing
Jack Annis	UW Extension (SWHEC)
Joe Radomski	Plover Fire Department
Lynn Morgan	Waste Management
Virginia Jach Richards	Supervisor, Town of King, Lincoln County
Marv Samson	VP, WI Towns Association; Chairman, Town of Black Creek, Outagamie County
Mary Klun	Douglas Co. Recycling Coordinator
Meleesa Johnson	Portage Co. Solid Waste Manager
John Schlicher	Marathon Co. Public Health Dept.
Tony Fraundorf	Lincoln Co. Public Health Dept.
John Wood	Private citizen impacted by burning
Karen Diehl	Private citizen impacted by burning
Sara Burr	DNR C& E rep
Rick Wulk	DNR Air rep
Don Grasser	DNR Waste rep
Blair Anderson	DNR Forestry rep
Kevin Kessler	Co-Leader, DNR, Air and Waste
John Melby	Co-Leader, DNR, Waste Mgt.
Barbara Hummel	Consultant and Facilitator

Farm/Ag Waste Topic Group Membership

Person	Representating
Lee Nerison	Farmer and Chair, Vernon Co. Board
Richard Hansen	Farmer & Vernon Co. Board Member
Dale Siebenbruner	Farmer, Creekwood Farms, Jefferson County
Betsy Ahner	WI Fertilizer & Chemical Assoc.
Don Healy	Safety Training and Compliance Specialist with West Central Compliance; member of the Federation of Cooperatives' Farm Supply Committee
Jim Wysocki	Potato and Vegetable Growers
Jack Annis	UW Extension (SWHEC)
Brian Holmes	Extension Specialist – UW Biological Systems Engineering Department
Tom Marini	Poysippi Fire Department
Dale Garski	Plover Fire Department
George Hayducsko	Dunn County Solid Waste Manager
Kathy Powell	Intra-State Recycling Corporation
Dave Kragness	Eau Claire Public Health Department
Roger Springman	Dept of Ag, Trade & Consumer Protection
Joel Stone	DNR C&E rep
Marty Burkholder	DNR Air rep
Chris Lilek	DNR Waste rep
Chris Klahn Rick Bucklew	DNR Forestry rep
Kevin Kessler	Co-Leader, DNR Air and Waste
John Melby	Co-Leader, DNR, Waste Mgt.
Barbara Hummel	Consultant and Facilitator

Small Business Waste Topic Group Membership

Person	Representing
Jack Annis	UW-Extension (SWHEC)
Steve Koback	Stevens Point Fire Department
Jenna Kunde	Wastecap
Ada Duffey	Milwaukee Lead/Asbestos Information Center, Inc.
Joe Lally	Sauk County Public Health Department (works with asbestos inspections)
Jim Hartleben	Wittenberg Disposal
Pam Christenson	Small Business Assistance Center, Department of Commerce
Tom Coogan	Small Business Assistance Center, Department of Commerce
Terry Mesch	Pepin County
Diane Jourdan	Oneida Nation
Dan Fields	DNR C&E
Joe Ancel	DNR Air
Len Polczinski	DNR Waste
Stan Nogalski	DNR Waste
Kevin Kessler	Co-Leader, DNR, Air and Waste
John Melby	Co-Leader, DNR, Waste Mgt.
Barbara Hummel	Consultant and Facilitator

Topic group:_____

Issue:_____

Strategy: (check one)
___Education and information
___Regulatory tool
___Local/state system development

Recommended action or activity:

Rationale:

Target audience for the recommended action:

To be implemented by:

Who else needs to be involved:

Other comments:

SUMMARY OF PRIORITY RECOMMENDATIONS FROM TOPIC GROUPS

Group Recomm. No.	% of Priority Votes	Issue	Topic Group Recommendation (Paraphrased from the original)	Education / Information	Regulatory Tool	Systems Development / Infrastructure	Timeframe
R-1	92%	Illegal Open Burning and Illegal Burning in Burn Barrels	We recommend that the Legislature grant DNR citation authority for dealing with worst case open burning violations.		X		Short-term
F-1	89%	Agricultural plastic bags and film	We recommend that the DNR, UW-Extension and private industry should in partnership: • Develop a regional or county system to collect and recycle plastics. • Develop a system for producers to clean and compact their plastic films • At least develop a program to facilitate delivery to landfills (Steering Group Note: This recommendation should include DATCP as a partner)	X		X	Long-term
B-1	77%	Illegal Open Burning	We recommend that citation authority be granted to the DNR. Implementation should include investigation by DNR Air/Waste staff and issuance of citations by DNR wardens as needed.		X		Short-term
F-2	72%	Illegal open burning/burning of waste; used oil/waste oil/other motor vehicle fluids; debris	We recommend that the Legislature grant citation authority to all responsible govt. units, including DNR) for: • Illegal open burning of waste, including in burn barrels, and • Dumping - Wardens also able to ticket oil/vehicle fluid users for illegal disposal/burning		X		Short-term
B-2	62%	Construction and demolition waste burning; Lack of construction industry compliance	We recommend that professional associations and government agencies attempt to educate the entire construction industry regarding the proper handling of waste materials. • Designers/architects, engineers and contractors should include specific language about handling each waste material within their plans and specs. • There should be outreach and education for engineering and demolition companies regarding basic regulations on demolition and preplanning for demolition wastes. • Public service announcements on demolition and renovation should be made	X			Short or medium-term

Appendix 4 - Topic Groups Detailed Recommendations - Grid

Open Burning and Backyard Dumping - Stakeholder Topic Group Report
Appendix 4 - Topic Groups Detailed Recommendations - Grid

Group Recomm. No.	% of Priority Votes	Issue	Topic Group Recommendation (Paraphrased from the original)	Education / Information	Regulatory Tool	Systems Development / Infrastructure	Timeframe
F-3	61%	Illegal open burning/burning of waste; used oil/waste oil/other motor vehicle fluids; debris	We recommend that burn barrel education/information materials be developed and distributed on: • Alternatives other than burning, and • Availability of recycling centers, drop off sites, etc. The materials should be included in recycling brochures distributed to residents and in direct mail to landowners.	X			Short or medium-term
B-3	54%	Waste Disposal	We recommend an open burning educational campaign targeted to small business to educate businesses through publications, public service announcements, seminars, etc. on WHY open burning is detrimental to the environment and public health.	X			Medium-term
R-2	54%	Illegal Open Burning and Illegal Burning in Burn Barrels	DNR should, in cooperation with the Wisconsin Towns Association, the Wisconsin Counties Association, the League of Municipalities and the Wisconsin Fire Chiefs Association, develop a model ordinance dealing with open burning		X		Medium-term
F-4	50%	Illegal open burning/burning of waste	We recommend that: • The state require or provide training of people issuing fire permits with respect to materials which are illegal to burn, and • The state should collect a reasonable permit fee that could be shared with issuer of the permit. (Steering Group Note: Since local fire wardens are appointed by Town Chairs and are volunteers, there's a very significant concern about imposing any additional state requirements)	X		X	Medium to Long-term
B-4	46%	Construction debris	Infrastructure should be developed to capture small business waste and recycle: • Include cardboard and metals • Drywall and wood recycling needs to be available			X	Long-term
F-5	44%	Waste/Used oil	We recommend that at the county level a means be developed to pick up used oil and antifreeze products at central and convenient collections points for used oil and antifreeze - particularly from smaller farms.			X	Medium to Long-term
R-3	38%	Illegal Open Burning and Illegal Burning in Burn Barrels	A DNR publication on open burning should be updated (or a new one prepared). The publication should state specifically what can be burned (limbs, leaves, plant clippings and untreated wood). It should note that nothing else can be legally burned.	X			Short-term

Open Burning and Backyard Dumping - Stakeholder Topic Group Report
Appendix 4 - Topic Groups Detailed Recommendations - Grid

Group Recomm. No.	% of Priority Votes	Issue	Topic Group Recommendation (Paraphrased from the original)	Education / Information	Regulatory Tool	Systems Development / Infrastructure	Timeframe
R-4	38%	Backyard dumping	The law should be changed to eliminate the present exemption for dumping in backyards. People and lawmakers should be shown that backyard dumping can cause water pollution. They should be shown how this could reduce property value and could be a State problem for clean-up.		X		Medium to Long-term
F-6	33%	Waste/Used oil	We recommend that local counties should work with landfill managers and responsible recycling units for educating farmers on what best works in that area for dealing with used oil.	X			Medium-term
F-7	33%	Debris - Vegetative matter	We recommend that when describing open burning alternatives, educational materials clarify that clean vegetative matter can be burned legally in rural areas	X			Short-term
F-8	33%	Pesticide containers	We recommend that development of a reverse distribution system / product stewardship for pesticide containers to deal with small users and retail sales.			X	Long-term
			Totals: (Number of recommendations in that category)	8	5	5	

Testimony of Ann Coakley, Waste & Materials Management Director, Wisconsin Department of Natural Resources Before the Senate Environment Committee Information Hearing on AB 372 March 16, 2010

Good afternoon Chairman Miller and members of the Committee. My name is Ann Coakley. I am the director of the Wisconsin Department of Natural Resource's Waste & Materials Management program. Thank you for the opportunity to testify today.

I am happy to be here to support the elimination of the household waste exemption from Wisconsin State Statute Chapter 289. The Department believes that household solid waste is better managed through reuse, recycling, or disposal at a regulated solid waste facility. Disposal of solid waste on private property can:

- Create a direct contact health hazard for children or neighbors who might accidently come into contact with the disposal site;
- Leak hazardous substances into ground water and surface water. The Department is most concerned about this practice contaminating the wells of the property owner and those of adjacent landowners. In extreme cases, this might result in illness and the loss of the use of drinking water supplies;
- Diminish the value of the property;
- Create a visual and odor nuisance to neighbors; and
- Circumvent the proper disposal of refuse. The Department is aware of properties where the landowner has buried their household waste for decades, basically possessing an unregulated dump on their property.

The Department receives approximately 150 residential open dumping complaints every year. When the Department receives complaints, we currently have to let the complainant know that it is legal for property owners to bury or dump their household garbage on their own property. This is surprising to many members of the public. Indeed, the Department believes this is an antiquated disposal method. It should be noted that Minnesota, Iowa, and Illinois do not allow this practice.

The repeal of the exemption would subject household waste to Chapter 289, which governs solid waste and solid waste disposal facilities in Wisconsin. Disposing household garbage by dumping or burying, on private property, would be illegal. Please note our rules do currently provide an exemption to allow the disposal of inert materials that would not impact the environment such as clean soil, brick, building stone, concrete, unpainted or untreated wood; this would remain unchanged.

If the exemption is eliminated, the Department will educate the public by providing information to property owners that disposing household waste outside a regulated solid waste facility is illegal. Only in the most egregious instances, where public health or the environment are threatened, and only based on citizen complaints, would the Department step in to abate the situation. We believe education is the most effective tool to inform the public of the public health threats posed by illegal open dumping of household waste.

Finally, if the exemption is repealed, complaint response would be simplified, because the Department would not need to spend time determining whether the waste disposed on a private property falls under the exemption.

Thank you again for allowing me to be here today to talk about this important bill.

Wisconsin Towns Association

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To: Senate Committee on Environment
From: Richard J. Stadelman, Executive Director
Re: AB 372 Repeal of exemption of disposal of household waste
on property where it is generated
Date: March 16, 2010

On behalf of Wisconsin Towns Association we respectfully ask the Senate Committee on Environment to support passage of AB 372 which repeals the exemption under current law to allow disposal of household waste on the property where the waste is generated. The disposal of household wastes on private property can be a potential danger to the groundwater supply for neighbors and the community as a whole. Our Association supports this bill, because household waste should be disposed of in more appropriate means than burying on private property.

Thank you for your consideration. (I apologize that I was not able to attend the hearing due to a conflict.)