Comments on this white paper may be sent to DNRRRNR700input@wisconsin.gov.

ISSUE: Timelines and submittals

Rule Subgroup: Other - timelines

BACKGROUND

Wis. Admin. Code chs. NR 700 through NR 754 provide specific timeframes for the main actions that must be taken by responsible parties, other parties conducting cleanups, and for department reviews and responses. These timeframes help to provide certainty for parties that are completing required actions and serves as a basis for the department to ensure consistent application of regulations. The purpose of this set of rule revisions is to provide additional direction and timeframes at places in code where needed to ensure that sites make timely progress through the investigation and remediation process.

PROPOSED CHANGES

RR program will propose rule revisions that provide additional clarity, where needed, to ensure that the code provides clear and consistent direction regarding the timing of required actions and/or submittals. The program anticipates proposing the following changes:

- *Chapter NR 700*
  - o Clarify that the six-month progress reports required under Wis. Admin. Code § NR 700.11 must be submitted on a form provided by the department and must include a proposed schedule for the project, a description of any imminent threats related to the hazardous substance discharge and environmental pollution identified and any immediate actions taken within the reporting period. The program will also consider adding language to improve the rate of response for six-month progress reports required under Wis. Admin. Code § NR 700.11. On average, over the last four years, about 10% of reports are not submitted following a request from the department. Additional language that clarifies specific penalties or other enforcement actions following non-submittal of progress reports may be considered.
  - o Remove note under Wis. Admin. Code § NR 700.11(1)(a) to reflect that copies of site progress reports forms are no longer found in the publications catalog.

- *Chapter NR 716* - Include a separate section on the department's review and response to a site investigation report, clarifying the department's ability to:
  - o require revisions and further site investigation work; and
  - o establish a schedule for responsible parties to provide additional information and revisions to the department.

- *Chapter NR 724* - Clarify that operations and maintenance progress reporting forms are no longer obtained via written request (this proposed rule change would revise the second note under Wis. Admin. Code § NR 724.13(3)).

- *Chapter NR 726* - Revisions may clarify the department's authority to establish timeframes for closure. As of June 2019, the program is in receipt of over 265 closure requests that have been open for over 12 months and over 230 requests that have been open over 24 months. Proposed revisions to Wis. Admin. Code ch. NR 726 may include language that clarifies the procedure that the department may follow, including notification to the affected responsible party and disposition of fees, when it is in receipt of closure requests that are awaiting actions from the requester for a given period of time (*e.g.*, 12 months, 24 months, or more).

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Other changes in addition to the proposed changes listed above may be included.

AFFECTED RULE CHAPTERS

NR 700, NR 716, NR 724, NR 726

OTHER RELATED RULE REVISIONS

Not applicable.

COMPARABLE STATE OR FEDERAL POLICIES

Not applicable.

DISCUSSION OF POTENTIAL ECONOMIC IMPACTS

The rule revisions will provide for clear and informative semi-annual progress reports and a timeframe for complete site investigation report submissions, which would provide better department oversight and ability to require sites to progress through the investigation and remediation progress as required under Wis. Stat. ch. 292. The rule revisions relating to timing and submission requirements may have an economic impact if they are drafted to be more stringent than statutory requirements for investigation and cleanup.

COMMENTS