

Rule Development Meeting September 5, 2019

Remediation &
Redevelopment Program



First Draft: Revisions Regarding Act 204 Change to Definition of “Agency with Administrative Authority”



Proposed Rule Revisions - Drafting Update
Michael Prager
September 5, 2019



Agency with Admin. Authority – Rule Revisions

- 2015 Act 204 modified definition of “agency with administrative authority” that is found in s. 292.12, Wis. Stats.
- Statutory authorization for continuing obligations
- Definition changed to add language: 292.12 (1) (a) "Agency with administrative authority" means the department of agriculture, trade and consumer protection with respect to a site over which it has jurisdiction under s. 94.73 (2) or the department of natural resources with respect to a site over which it has jurisdiction under ~~s. 292.11 (7)~~ ch. 289, 291, or 292.



Agency with Admin. Authority – Rule Revisions

Proposed rule changes:

- Modify NR 725, 726 and 727 so that it is clear they apply to sites where cleanup is required under ch. 292 as well as ch. 289 (solid waste facilities) and ch. 291 (hazardous waste facilities)



Next Steps

- Second draft rule: Nov. 6, 2020, Rule Development Meeting
- Post-meeting comments may be directed to:
DNRRRNR700input@wisconsin.gov

First Draft: Proposed Revisions Regarding Terminology, Submittals, and Other Changes




Proposed Rule Revisions - Drafting Update
Jenna Soyer
September 5, 2019



Terminology & Submittals - Rule Revisions

- First draft of catch-all (misc.) rule revisions
- Highlights/topics
 - Parcel and geolocation info
 - Terminology updates
 - Submittal requirements
 - Drinking water
 - Reports required for closure



Terminology & Submittals - Rule Revisions


- Parcel, deed, and geolocation info
 - Repeating requirements reorganized into one list at NR 700.15
 - Geolocation info requirements updated
 - Omitted unnecessary info (PLSS, latitude/longitude)





Terminology & Submittals - Rule Revisions

- Terminology updates
 - References to BOTW and RR Sites Map
 - Site definition includes Wis. Stat. s. 292.01 “site or facility”
 - The effect is to include “approved facility, an approved mining facility, a nonapproved facility” to the code’s definition of “site”
 - NR 149 consistency (replicate/duplicate)



Terminology & Submittals - Rule Revisions


- Submittal requirements
 - Electronic only (paper no longer required)
 - Public records unless confidentiality granted





Terminology & Submittals - Rule Revisions

- Drinking water
 - Applicable environmental standards for drinking water clarified at NR 722.09
 - MCLs apply for any community or non-transient non-community public water system
 - GW, surface water, or wetlands standards apply for transient non-community public water systems and private water systems
 - Where no standards exist, DNR and DHS approval needed for site-specific standards



Terminology & Submittals - Rule Revisions

- Reports required for closure
 - DNR shall not approve unless all submittals received, including:
 - Site progress reports
 - Intermediate and interim action reports
 - Professional certifications SIWP and SIR
 - ROAR
 - Design, construction, O&M plans
 - CO identification and notice to property owners
 - Forms and requirements for closure
 - Fees



Next steps

- Second draft rule: Nov. 6, 2019, Rule Development Meeting
- Post-meeting comments may be directed to:
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White Paper: Remedial Action Confirmation Samples



Proposed Rule Revisions - Drafting Update

Judy Fassbender

September 5, 2019



White Paper – RA Confirmation Samples

- NR 724 – Requirements regarding remedial action design, implementation and documentation
- NR 724.15 – Documentation of cleanup action
- Proposal: Modify 724.15 to explicitly require confirmation sampling to verify that cleanup levels have been achieved and reported to DNR



Next steps

- First draft rule: Nov. 6, 2019, Rule Development Meeting
- Second draft rule: Jan. 9, 2020, Rule Development Meeting
- Post-meeting comments may be directed to:
DNRRRNR700input@wisconsin.gov



First Draft: Rule Revisions Relating to Contaminated Sediments

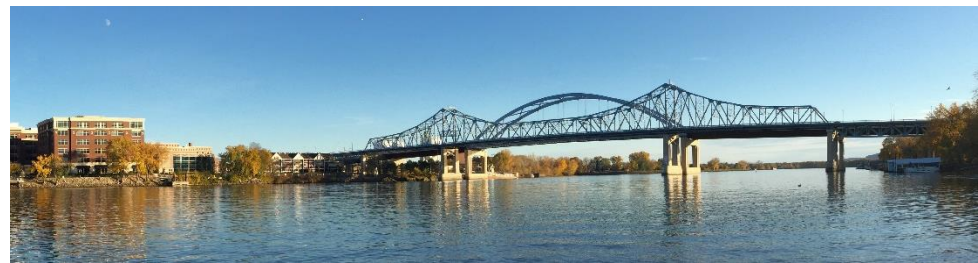


Proposed Rule Revisions - Drafting Update
Judy Fassbender
September 5, 2019



Rule Revisions – Contaminated Sediment

- White paper - May 7, 2019, Rule Development Meeting
- General purpose of revisions - ensure adequate direction for contaminated sediment sites
- Highlights by chapter...





Rule Revisions – Contaminated Sediment

- NR 700 definitions
 - Terms needed following Act 204, including “cap” and “structural impediment”
 - Technical terms
 - Conceptual site model



Rule Revisions – Contaminated Sediment

- NR 708
 - Language for sediment sites
 - Cap/cover clarification
 - Structural impediment considerations



Rule Revisions – Contaminated Sediment

- NR 716
 - Language for sediment sites
 - SI scoping info needed for sediment sites (NR 716.07)
 - SIWP sediment requirements (NR 716.09)
 - CSM required



Rule Revisions – Contaminated Sediment

- NR 716 (cont.)
 - Field investigation sediment requirements (NR 716.11)
 - Adverse effects from consumption of plants and wildlife
 - Composite samples
 - NR 149 consistency
 - QAPP, sampling, cores, analytical data validation



Rule Revisions – Contaminated Sediment

- NR 722
 - Environmental laws and standards for selection of remedial action for sediment (NR 722.09)
 - Surface waters – NR 102 to NR 106
 - Sediment – restore to protect public interest
 - Includes uses of waters of the state
 - No closure if human health consumption advisories
 - RCL levels in NR 720, or as approved by DNR
 - RP shall evaluate ecological and human health effects

Rule Revisions – Contaminated Sediment

- NR 722 (cont.)
 - RAOR (NR 722.13) contains descriptions of:
 - DNR determination of OHWM
 - Continuing obligations
 - Financial assurance per NR 756





Rule Revisions – Contaminated Sediment

- NR 724
 - Design report (NR 724.09) contains:
 - Complete discussion of monitoring and operation and maintenance if an O&M plan is completed as part of design report
 - Continuing obligations
 - Financial assurance per NR 756
 - O&M plan (NR 724.13)
 - Off-site included
 - Sediment cap requirements

Rule Revisions – Contaminated Sediment

- NR 724 (cont.)
 - NR 724.17 long-term monitoring results report – requirements for sediment caps





Rule Revisions – Contaminated Sediment

- NR 726
 - Language for sediment sites
 - Criteria for closure at sediment sites (NR 726.05)
 - Pathway investigated per NR 716
 - Ecological and human health risks per NR 722
 - RA conducted
 - Laws and standards met
 - Financial assurance obtained, if required



Rule Revisions – Contaminated Sediment

- NR 726 (cont.)
 - Closure letter language (NR 726.15)
 - Residual sediment contamination
 - Structure or engineering control for prevention of direct contact with sediment
 - Structural impediments
 - Site-specific conditions



Rule Revisions – Contaminated Sediment

- NR 727
 - Continuing obligations for sediment (NR 727.05)
 - Property owner requirements (Act 204 consistency)
 - Responsible party requirements



Next steps

- Second draft rule: Nov. 6, 2019, Rule Development Meeting
- Post-meeting comments may be directed to:
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Second Draft: Rule Revisions Regarding Statutory Changes Made by 2017 Wis. Act 70 to VPLE



Proposed Rule Revisions - Drafting Update
Michael Prager
September 5, 2019



Rule Revisions – Act 70

- 2017 Act 70 Included Changes to VPLE
- Proposed rule changes to be consistent with statutory changes
- Remove “property” definition in NR 700
- Refer to new definition of “property” for VPLE in NR 750, 754 and 758 (new)
- Revised process when property boundaries change at VPLE site in NR 750



Next steps

- This meeting is the last Rule Development Meeting for this item
- Post-meeting comments may be directed to:
DNRRRNR700input@wisconsin.gov

Thank you!

