

ISSUE: Notification requirements related to sample results, offsite contamination, and closure

Rule Subgroup: Notification and Closure

BACKGROUND

This paper addresses proposed revisions to Wis. Admin. Code chapters NR 716, NR 725 and NR 726 related to notifications and closure requirements as directed in the RR-10-17 Statement of Scope broadly to update, clarify and promote consistency within chs. NR 700 through NR 754, Wis. Admin. Code.

PROPOSED CHANGES

1. Changes to sample results notification requirements

Proposed changes would clarify requirements for the accompanying information that responsible parties must include when submitting groundwater sample results to the department, well owners and occupants under Wis. Admin. Code § NR 716.14(1). The department is proposing to add language that would clarify and mirror requirements for samples from other media found in Wis. Admin. Code § NR 716.14(2) for consistency.

2. Modify the notification requirements for off-site properties with residual groundwater contamination

Proposed changes would modify notification of affected property owners under Wis. Admin. Code §§ NR 725.05(2)(a) and NR 726.15 where the residual contamination is groundwater. Currently, notification and continuing obligations are placed on properties with residual groundwater contamination which attains or exceeds Wis. Admin. Code ch. NR 140 enforcement standards to ensure that prior department approval is sought before the property owner intends to construct or reconstruct a potable well (NR 812.09(4)(w)). For sites that obtain drinking water from municipal systems, residual groundwater contamination will not be a concern because property owners are required to connect to an available municipal system if a local ordinance exists (Wis. Stat. § 281.45).

3. Clarify and update the methods and requirements for submitting closure requests and forms, and case closure response action goals

The department proposes making a number of small changes to ch. NR 726 with the goals of improving the quality of closure reports submitted and updating submittal/geographic data requirement references.

Some of these changes may include:

- (a) Requiring electronic submittal of case closure documents via the e-submittal portal (Wis. Admin. Code § NR 726.09(1)).
- (b) Requiring an executive summary and clarifying site background information that should be submitted as part of the closure request (Wis. Admin. Code § NR 726.09(2)).
- (c) Clarify deed documentation requirements (*i.e.* must be most recent recorded deed). (Wis. Admin. Code § NR 726.11(4)).
- (d) Clarify inclusion of rights-of-way in listing of affected property requirements (Wis. Admin. Code § NR726.11(4)(d)).
- (e) Clarify figure requirements to include a map with soil sample results and structural impediment locations. (at Wis. Admin. Code § NR 726.11(5)(c)).

Comments on this white paper may be sent to DNRRNR700input@wisconsin.gov.

- (f) Clarify documentation requirements related to the vapor pathway (Wis. Admin. Code §§ NR 726.11(5) and NR 726.11(6)).
- (g) Provide direction that will improve readability of data tables submitted (Wis. Admin. Code § NR 726.11(6)).
- (h) Add requirement to submit parcel ID with documentation for monitoring well location (Wis. Admin. Code § NR 726.11(7)).

4. Update media covered in response action goals and closure approvals

The department proposes revising Wis. Admin. Code §§ NR 726.05(4) and NR 726.13(1)(b) to mirror the media outlined in NR 722.09(2), which include soil, groundwater, surface water and wetlands, air (including vapor intrusion) and hazardous and solid waste. Modifications would also include adding a reference to sediments (additional updates will be needed to NR 722.09(2) to include sediment for continuity). This change would improve clarity and consistency for cleanup goals throughout the NR 700 regulatory process.

AFFECTED RULE CHAPTERS

NR 716, NR 725, NR 726

OTHER RELATED RULE REVISIONS

Contaminated sediments - adequate procedures and guidance for contaminated sediment sites Act 204 - database listing, fees, notifications

COMPARABLE STATE OR FEDERAL POLICIES

n/a

DISCUSSION OF POTENTIAL ECONOMIC IMPACTS

Changes are generally administrative and unlikely to have a negative economic impact.

COMMENTS

Please note, the department proposed adding language to NR 726 to clarify closure documentation requirements related to sediment in a previous sediment white paper discussed at the May 7, 2019, rule development meeting (Wis. Admin. Code §§ NR 726.09, NR 726.11(2), (4), (5) and NR 726.11(6)).