

ISSUE: Potential changes to Umpire Process in Wis. Stats. § 292.35

BACKGROUND

Wis. Stats. § 292.35 includes a process called “Local Government Unit Negotiation and Cost Recovery,” which allows a local government to work out a plan for the local government and other responsible parties to contribute to a cleanup action. Recent experience with using this process has identified some areas that could make the tool more beneficial.

PROPOSED CHANGES

Improve the “Local Government Unit Negotiation and Cost Recovery” process so this tool could be used more to help local governments fund cleanup of brownfield sites with multiple responsible parties. Issues to consider include.:

- Require that offers to settle be submitted to the department for approval.
- Require that site investigation be completed and approved by the department before the preliminary remedial action plan is submitted to the department for approval.
- State more explicitly that any responsible party that receives an offer to settle and does not reach agreement in negotiation is subject to the umpire’s recommendations, regardless of whether the responsible party participates in negotiations.
- Consider if rulemaking authority needed to establish how submittals should be evaluated by department for 292.35.
- Evaluate the rate of interest imposed on the judgments against a responsible party.
- Amend Wis. Stat. § 292.35(3)(d) which requires the DNR to “select 5 additional umpires from the list and inform the LGU and RPs of the persons selected,” if the selected umpire is unacceptable.
- Provide for situations where less than five umpires have expressed interest in serving on the list.