

## PUBLIC PARTICIPATION PROPOSAL HAZARDOUS WASTE CLEANUP VARIANCES

### I. PUBLIC PARTICIPATION

Hazardous waste cleanup variances can cover a myriad of situations. On one end of the spectrum are multi-million dollar projects to remediate large volumes of contaminated media, with numerous contaminants using several different types of treatment units. On the other hand, there are also situations where one treatment option is used to manage a relatively small volume of contamination with only one contaminant of concern. Given the large variability in the scope of these types of projects, WDNR is proposing a 3-tiered approach to public participation. The specifics of each tier are summarized below.

#### Tier 1

This tier would typically include those situations where a hazardous waste variance was being issued in conjunction with a Class 2 modification that specifies the approved corrective measures for a facility. The process would follow the provisions set out for Class 2 modifications in s. NR 680.07(5). It is anticipated that very few hazardous waste variances would be issued in this manner.

#### Tier 2

This tier would constitute the process that would be utilized when issuing a majority of hazardous waste cleanup variances. Unless another entity is approved by the Department to carry out the public participation process, the responsible party would be required to issue a class I public notice, which includes the following information:

1. A description of the type, volume and characteristics of the contamination,
2. The proposed response actions to be implemented to contain, reduce, or eliminate the threat of the contamination,
3. The phone number and addresses of persons to contact for more information,
4. The locations and times where interested parties can review the proposed response action, and
5. The DNR contact person that comments should be submitted to.

The notice must provide for a minimum 30 day comment period. A copy of the public notice along with a list of newspapers which carried the notice must be included as part of the variance application. If the responsible party or the department determine that additional public participation is necessary the provisions in s. NR 714.07 (6) will be followed. WDNR will respond to the comments received.

### Tier 3

This tier would include those situations where the proposed variance addresses the treatment of material that is defined as hazardous under state rules, but not federal rules. One example would be certain manufactured gas plant (MGP) wastes. A recent federal appeals court decision vacated the application of the toxicity characteristic leaching procedure (TCLP) test to MGP wastes. Therefore, if MGP wastes were determined to be hazardous solely because it fails TCLP for benzene, it would not be a federally regulated hazardous waste. In these types of situations WDNR proposes that we would follow the provisions in ch. NR 714 – Public Information and Participation, for determining the need for and level of public participation.