

ISSUE: Rule modifications to create process to require continuing obligations after approval of an interim action

Rule Subgroup: Continuing Obligations for Interim Actions

BACKGROUND

2015 Act 204 modified Wis. Stats. ch. 292.12 to clarify that the Department can impose continuing obligations after the approval of an interim action.

PROPOSED CHANGES

1. Create a new section NR 708.12 that requires responsible parties to submit an interim action plan with a fee before they conduct certain types of interim actions which would necessitate the need for a continuing obligation at a site. Interim action plans would need to be approved for actions including installation of a vapor intrusion system in a building, managing contaminated soil under the rules in NR 718, or constructing a temporary or permanent engineering control. This section will require that adequate information but submitted for the department to determine that the interim action is being designed correctly and is effective.
2. Create a new section NR 708.14 that titled "Department Response" that would describe how the agency would respond after reviewing an interim action plan. After the department reviews the plan, modifications or more information may be requested. The department would provide a written response that may include requirements to comply with continuing obligations that may apply to the source property or off-site property.
3. Modify NR 718 to note that interim actions that involve managing contaminated soil need department approval as part of the interim action plan. (Note: Some of the changes to 718 were included in the rule draft on soil management presented at the April and June rule advisory group meetings; see the second draft of those rule changes here: https://dnr.wi.gov/topic/brownfields/documents/rules/EAC_SoilMngt20190604.pdf)
4. Modify NR 725 to clarify that the notification requirements also may apply when continuing obligations are imposed as a condition of approving an interim action. (Note: Some of the rule language changes related to this topic were presented to the external advisory group at the March and April meetings in the rule draft on "Act 204 / database listing, fees, notifications"; see 2nd draft rule proposal here: <https://dnr.wi.gov/topic/Brownfields/documents/rules/Act204DraftRule2.pdf>).
5. Modify NR 727.01, 727.05, 727.07 and 727.09 to clarify that the requirements in this chapter regarding continuing obligations also may apply to continuing obligations are imposed as a condition of approving an interim action

AFFECTED RULE CHAPTERS

Wis. Admin. Code chs. 708, 718, 725, and 727 need to be modified to enact these proposed changes.

OTHER RELATED RULE REVISIONS

NA

COMPARABLE STATE OR FEDERAL POLICIES

NA

DISCUSSION OF POTENTIAL ECONOMIC IMPACTS

No economic impact is expected.

COMMENTS
