

Remediation and Redevelopment Program – Rule Development Meeting

November 6, 2019 | 10:00 a.m. to 2:00 p.m.

Wisconsin Dept. of Natural Resources
GEF 2 | Room 513
101 S. Webster St. | Madison, WI 53701

Meeting materials are available at: <https://dnr.wi.gov/topic/Brownfields/RuleChanges.html>.

Attendees: Molly Schmidt (DNR), Michael Prager (DNR), Gena Larson (DNR), Jodie Peotter (DNR), Judy Fassbender (DNR), Bob Pearson (DOT), Jenna Soyer (DNR), Renee Exum (Michael Best), Carrie Webb (DNR), Bill Nelson (DNR), Frank Dombrowski (WE Energies), Jennifer Hagen (OBG Ramboll), Margaret Brunette (DNR), Meghan Blodgett (SCS ENGINEERS), Andrea Gelatt (Midwest Environmental Advocates), Kate Verbeten (Pase Analytical), Shelley Hidlebrandt (Intertek), Lynn Morgan (Waste Management), Chelsea Payne (Gannett Fleming)

Meeting Notes:

1. Welcome and Introductions.

Staff and guests introduced themselves. Staff provided background on rule development meetings, stating that the purpose of holding these meetings was to provide an additional opportunity for rule input during the rule drafting period of the rulemaking process. Rule development meetings are not part of the formal rule making public input process. Subjects from scope statements are divided up and spread out over the drafting period for discussion at the rule development meetings. The timing of the public hearings and the other steps of the rulemaking process is available on the NR 700 Rule Changes web page. Attendees are encouraged to submit further comments via the designated email address.

2. First draft of proposed rule revisions relating to submittal timelines in the NR 700 rule series.

DNR staff member Jenna Soyer presented an overview of the first draft of rule revisions. Following the presentation, an attendee asked staff to review whether language at WIs. Admin. Code s. NR 726.13 was needed to promote consistency between various documentation reviews done by different staff members, and whether the department's requests for nominal fixes to submittals could be directed to consultants ahead of responsible parties.

3. Second draft of proposed rules relating to submittal preparation requirements and other changes to ch. NR 712.

DNR staff member Jenna Soyer presented an overview of the second draft. An attendee asked whether the department would provide guidance or similar to indicate what requirements apply beyond the ASTM standards. Staff replied that the key distinctions were that Wisconsin's statutory definitions of "hazardous substances" and "environmental pollution", and that submittals would need to address these items in addition to the other CERCLA hazardous substances required by ASTM standards.

4. First draft of rule revisions affecting fees required under ch. NR 749.

DNR staff member Jenna Soyer presented an overview of the first draft.

5. Second draft of proposed rule revisions relating to 2015 Wis. Act 204 changes to the definition of “agency with administrative authority”.

DNR staff member Michael Prager presented an overview of the second draft.

6. Second draft of miscellaneous proposed rule revisions including updates to terminology, submittal format requirements, and other changes.

DNR staff member Jenna Soyer presented an overview of the second draft.

7. First draft of rule revisions relating to remedial action confirmation samples.

DNR staff member Judy Fassbender presented an overview of the first draft. Following the presentation, an attendee asked whether closure limitations would apply to a responsible party if a fish advisory existed at a site, but was not related to the specific contaminants for which that party is responsible. Staff replied that, in this case, the fish advisory requirements would relate only to the contaminants for which the party was responsible. Additionally, if natural attenuation is being used at a site, a record is established of ongoing recovery, and the source of the contamination impairing fish health has been removed, closure may be considered because no further action would be needed.

8. Second draft of rules relating to contaminated sediment sites.

DNR staff member Judy Fassbender presented an overview of the second draft.

9. Conclude and Adjourn.

DNR staff announced that the next Rule Development Meeting would be held on December 3, 2019, in Madison. Staff would present the following items for comment:

- A first draft of rules relating to 2015 Wis. Act 204 changes and the definition of “continuing obligations”;
- A first draft of rule revisions relating to 2015 Wis. Act 204 changes and continuing obligations for interim actions;
- A first draft of rule revisions relating to 2015 Wis. Act 204 and the rights and responsibilities of owners and occupants at sites with residual contamination;
- A second draft of rule changes relating to emerging contaminants;
- A second draft of rule changes relating to remedy selection (Wis. Admin. Code ch. NR 722); and
- A second draft of rule changes relating to notification and closure.