

## REMEDATION AND REDEVELOPMENT ISSUE BRIEF

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DATE:

To be completed when final decision is approved by RRMT:

**RRMT Decision:** Click here to enter text.

**Why (Quick, succinct summary if needed):** Click here to enter text.

**Responsible for following up (who and how):** Click here to enter text.

**Deadline for implementation:** Click here to enter text.

**Communication Plan/Needs:** Click here to enter text.

**IT Plan/Needs:** Click here to enter text.

**Publications/Web Pages to Be Updated:** Click here to enter text.

**ISSUE TITLE & DESCRIPTION:** Use of consensus-based sediment quality guidelines (CBSQG) for soil and NR 720 standards for sediment.

**AUTHOR:** IST

**SPONSOR:** Judy Fassbender

**RRMT REVIEWER:**

**THIS ISSUE IS:** *(choose one)*      ☒ Decision      ☐ Discussion      ☐ Information      ☐ Consistency

**THIS ISSUE ADDRESSES ITEMS FROM:** ☐ Strategic Direction Plan    ☒ Team Action Plan    ☐ A Separate Approval from RRMT

**CONFIDENTIAL:**                      ☒ No                      ☐ Yes

**PURPOSE OF THE BRIEFING:** *(Select all that apply)*

- |   |   |
|---|---|
| <input type="checkbox"/> Controversial Issue              | <input type="checkbox"/> Financial Impact                     |
| <input checked="" type="checkbox"/> Policy Clarification  | <input type="checkbox"/> High Profile Project                 |
| <input type="checkbox"/> Rulemaking                       | <input type="checkbox"/> Involves/Impacts External Parties    |
| <input type="checkbox"/> Other: <i>(Please describe.)</i> | <input type="checkbox"/> Involves/ Impacts Other DNR Programs |

**IMPACTED STAKEHOLDERS:** *(Include both internal and external parties)*

- DNR Project Managers, IST members, Responsible Parties

### SUMMARY OF IT ISSUES OR NEEDS:

Determine what standard or guideline should be used between soil and sediment for wetlands without an OHWM determination, mudflats, sites where an OHWM determination is difficult i.e. Kewaunee Marsh, and other situations where the strict definition of sediment or soil may not be protective of the environment/use of the property.

**REVIEW AND SIGN OFF BY AUTOMATION TEAM LEADER:** *(date)* [Click here to enter text.](#)

**COMMUNICATION NEEDS:** *(Check all that apply)*

- |  |   |
|--|---|
| <input type="checkbox"/> One-on-one public interaction (in person/telephone)   | <input type="checkbox"/> Targeted emails                                  |
| <input type="checkbox"/> Public information/availability session or open house | <input type="checkbox"/> Mediasite/Skype meeting                          |
| <input type="checkbox"/> Formal public meeting                                 | <input type="checkbox"/> GovDelivery newsletter/subscriptions             |
| <input type="checkbox"/> News release(s)                                       | <input type="checkbox"/> Web page on DNR website                          |
| <input type="checkbox"/> Talking points  | <input type="checkbox"/> Email address (general mailbox)                  |
| <input type="checkbox"/> Fact sheet(s)   | <input type="checkbox"/> DNR social media                                 |
|  | <input type="checkbox"/> Other: <a href="#">Click here to enter text.</a> |

☐ **Existing Documents:** *(Identify and list the title and location of any existing/related documents that address this issue such as publication, decision documents, etc. Identify if this decision impacts any of those documents' contents)*

**Will these existing documents need to be updated?** ☐ Yes ☐ No

☐ **Narrative:** *(Include what outreach to stakeholders has occurred or will occur)*

**DATE DECISION IS NEEDED:**

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**EXPECTED OUTCOME:**

RRMT agrees that the Program has been directed to be protective of human health and environmental receptors in water and land locations. The Program should use the best tools to guide response actions. Response actions for soils must continue to use NR 720 soil standards however aquatic and terrestrial ecological criteria, guidelines and literature values may also be considered where protection of ecological receptors may be an issue. Sediment guidelines may be applicable in instances where the soil standards are not protective of the environment e.g.. in wetlands not connected to a navigable water way. Similarly, soil standards may be applicable in instances where sediment guidelines do not adequately address the risk pathway to human exposure through direct contact e.g. in mud flats with pedestrian use.

**BACKGROUND:** Sediment and soil are defined in statutes. The statutes also direct that spill sites must be restored to be protective such that hazardous substances or environmental pollution do not present an actual or potential threat to public health, safety, or welfare or the environment. Humans and environmental receptors may be at risk from environmental pollution in soil and sediment.

**OPTIONS ANALYSES:**

**OPTION 1:** Soil standards and sediment guidelines can be used to evaluate the risk to humans and environmental receptors in areas occupied by either soil or sediment.

**ADVANTAGES:** Provides most protective standard for human health and the environment.

**CONCERNS:** While use of NR 720, NR 140, and NR 105 standards is proposed as part of the NR 700 rule revisions for sediment, soil per code is to be compared to the NR 720 soil standards and per NR 720.13 other pathways of concern. Currently there are no numeric sediment standards or approved guidelines. The CBSQG are draft guidelines which are intended as screening values to assess the likelihood of toxic effects on aquatic invertebrates. The CBSQG and literature values are used as one line of evidence to guide decision-making for cleanup criteria.

**OTHER FACTORS:**

**OPTION 2:** Status Quo: Soil standards may be used to evaluate soil and sediment; however, sediment guidelines may only be used to evaluate sediment.

**ADVANTAGES:** Supported by the current NR 700 definitions and process, and the NR 700 rule revisions.

**CONCERNS:** Definition of sediment in statute changed such that in many cases wetlands are not considered sediment but rather soil because wetlands can be located above the ohwm, and the soil standards are not protective of the environment in this case.

**OTHER FACTORS:**

**RECOMMENDATION FROM TEAM/SUBGROUP:**

IST recommends Option 1 that would allow RPs and PMs to make determinations based on the standard that is most protective of the environment.

**SUPPORTING DOCUMENTATION:** *(list or attach)*

**Wis. Stats. 292.11 (3) RESPONSIBILITY.** A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of this state.

Wis. Adm. Code NR 700.03 (48) “Remedial action” or “remedy” means those response actions, other than immediate or interim actions, taken to control, minimize, restore, or eliminate the discharge of hazardous substances or environmental pollution so that the hazardous substances or environmental pollution do not present an actual or potential threat to public health, safety, or welfare or the environment. The term includes actions designed to prevent, minimize, stabilize, or eliminate the threat of discharged hazardous substances, and actions to restore the environment to the extent practicable and meet all applicable environmental standards. Examples include storage, disposal, containment, treatment, recycling, or reuse, and any monitoring required to assure that such actions protect public health, safety, and welfare and the environment.