

Rule Development Meeting November 6, 2019

Remediation & Redevelopment Program



Rule Revisions Relating to Submittal Timelines – First Draft



Proposed Rule Revisions - Drafting Update

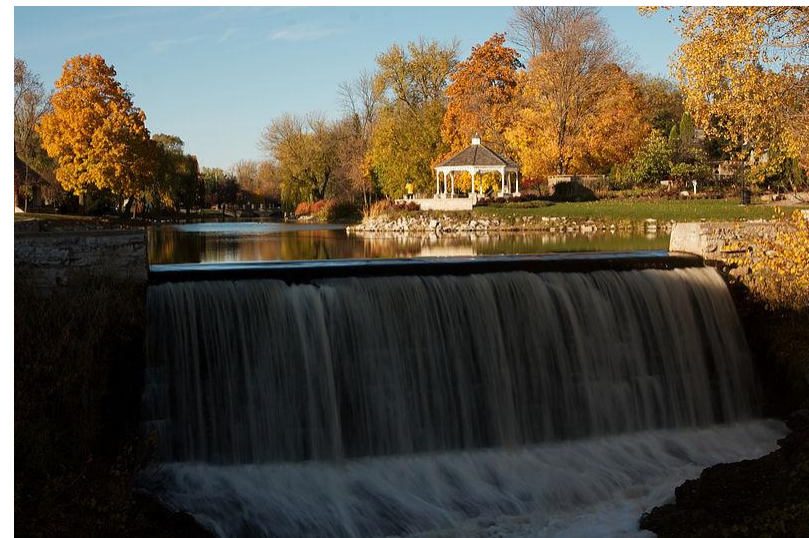
Jenna Soyer

November 6, 2019



Rule Revisions Relating to Submittal Timelines – First Draft

- NR 700
 - Content and timing of site progress reports
 - Enforcement tools





Rule Revisions Relating to Submittal Timelines – First Draft

- **NR 716**
 - Schedule for SIR additional info
- **NR 726**
 - Denial of incomplete closure requests and reapplication of fee
 - Schedule for meeting additional closure conditions



Next steps

- Second draft rule: January 9, 2020, Rule Development Meeting
- Post-meeting comments may be directed to:
DNRRRNR700input@wisconsin.gov



Revisions Relating to ch. NR 712 - Second draft



Proposed Rule Revisions - Drafting Update

Jenna Soyer

November 6, 2019



Revisions Relating to ch. NR 712 - Second draft

- Closure submittals must have P.E. and P.G. signature
- DNR NR 716/ASTM Phase I and Phase II/DNR VPLE/Lender Liability Exemption requirements





Next steps

- This is the final Rule Development Meeting for this item.
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Revisions Relating to Fees under ch. NR 749 – First Draft



Proposed Rule Revisions - Drafting Update

Jenna Soyer

November 6, 2019



Revisions Relating to Fees under ch. NR 749 – First Draft

- NR 749.03 and NR 749.04
 - Electronic payment, processing fees
 - 5% increase every 3 years
 - Closure fee reapplication to SIR





Revisions Relating to Fees under ch. NR 749 – First Draft

- NR 749.04, Table 1
 - Overall 2% increase (rounded)
 - Contracts under s. 292.31
 - Fees added for interim action plan & report
 - Fees added for NR 756 items
 - Construction documentation report fee increased
 - Database fees simplified

Revisions Relating to Fees under ch. NR 749 – First Draft

- NR 749.05, NR 749.06, and NR 749.07
 - Hourly fees for 292.31 contracts
 - Fees for enforcement orders or actions
 - Fees for database listings





Next steps

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Proposed Revisions Relating to the Definition of “Agency with Administrative Authority” – Second Draft



Proposed Rule Revisions - Drafting Update
Michael Prager
November 6, 2019



Revisions Relating to “Agency with Administrative Authority”

- First Draft shared at September meeting
- 2015 Act 204 modified definition of “agency with administrative authority” that is found in s. 292.12, Wis. Stats.
- Statutory authorization for continuing obligations

Proposed rule changes:

- Modify NR 725, 726 and 727 so that it is clear they apply to sites where cleanup is required under ch. 292 as well as ch. 289 (solid waste facilities) and ch. 291 (hazardous waste facilities)




Next steps

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Proposed Miscellaneous Rule Revisions Including Updates to Terminology, Submittal Format Requirements, and Other Changes – Second Draft




Proposed Rule Revisions - Drafting Update
Jenna Soyer
November 6, 2019



Terminology & Submittals - Rule Revisions


- Second draft of catch-all (misc.) rule revisions
- Highlights/topics
 - Parcel and geolocation info
 - Terminology updates
 - Submittal requirements
 - Drinking water
 - Reports required for closure






Terminology & Submittals - Rule Revisions

- Parcel, deed, and geolocation info
 - Repeating requirements reorganized into one list at NR 700.15
 - Geolocation info requirements updated
 - Omitted unnecessary info (PLSS, latitude/longitude)



Terminology & Submittals - Rule Revisions

- Terminology updates
 - References to BOTW and RR Sites Map
 - Site definition includes Wis. Stat. s. 292.01 “site or facility”
 - The effect is to include “approved facility, an approved mining facility, a nonapproved facility” to the code’s definition of “site”
 - NR 149 consistency (replicate/duplicate)



Terminology & Submittals - Rule Revisions


- Submittal requirements
 - Electronic only (paper no longer required)
 - Public records unless confidentiality granted





Terminology & Submittals - Rule Revisions

- Drinking water
 - Applicable environmental standards for drinking water clarified at NR 722.09
 - MCLs apply for any community or non-transient non-community public water system
 - GW, surface water, or wetlands standards apply for transient non-community public water systems and private water systems
 - Where no standards exist, DNR and DHS approval needed for site-specific standards



Terminology & Submittals - Rule Revisions

- Reports required for closure -
 - DNR shall not approve unless all submittals received, including:
 - Site progress reports
 - Intermediate and interim action reports
 - Professional certifications SIWP and SIR
 - ROAR
 - Design, construction, O&M plans
 - CO identification and notice to property owners
 - Forms and requirements for closure
 - Fees
- VPLE application fee increase in NR 750



Next steps

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Proposed Revisions Relating to Remedial Action Confirmation Samples– First Draft



Proposed Rule Revisions - Drafting Update
Judy Fassbender
November 6, 2019



Revisions Relating to RA Confirmation Samples– First Draft

- NR 724 Describes requirements for remedial action design, implementation and documentation
- NR 724.15 Documentation of cleanup action
- Proposal: Modify 724.15 to explicitly require confirmation sampling to verify that cleanup levels have been achieved and reported to DNR (minor revision to language)



Next steps

- Second draft rule – January 9, 2020
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Revisions Relating to Contaminated Sediment Sites – Second Draft



Proposed Rule Revisions - Drafting Update

Judy Fassbender

November 6, 2019



Rule Revisions – Contaminated Sediment Sites – Second Draft

- White paper at May 7, 2019, Rule Development Meeting
- First draft at Sept. 5, 2019, Rule Development Meeting
- Purpose of revisions: ensure adequate direction for contaminated sediment sites
- Highlights by chapter...





Rule Revisions – Contaminated Sediment

- NR 700 definitions
 - Terms needed following Act 204, including “cap” and “structural impediment”
 - Technical terms
 - Conceptual site model



Rule Revisions – Contaminated Sediment

- NR 708
 - Language for sediment sites
 - Cap/cover clarification
 - Structural impediment considerations





Rule Revisions – Contaminated Sediment

- NR 716
 - Language for sediment sites
 - SI scoping info needed for sediment sites (NR 716.07)
 - SIWP sediment requirements (NR 716.09)
 - CSM required



Rule Revisions – Contaminated Sediment

- NR 716 (cont.)
 - Field investigation sediment requirements (NR 716.11)
 - Adverse effects from consumption of plants and wildlife
 - Composite samples
 - NR 149 consistency
 - QAPP, sampling, cores, analytical data validation



Rule Revisions – Contaminated Sediment

- NR 722
 - Environmental laws and standards for selection of remedial action for sediment (NR 722.09)
 - Surface waters – NR 102 to NR 106
 - Sediment – restore to extent practicable
 - protect public interest, uses of waters of the state
 - No RA approval if human health consumption advisories
 - RCL levels in NR 720, or as approved by DNR
 - RP shall evaluate ecological and human health effects

Rule Revisions – Contaminated Sediment

- NR 722 (cont.)
 - RAOR (NR 722.13) contains descriptions of:
 - DNR determination of OHWM
 - Which RAs address soil versus sediment
 - Continuing obligations
 - Financial assurance per NR 756





Rule Revisions – Contaminated Sediment

- NR 724
 - Design report (NR 724.09) contains:
 - Description of how IA/RA address CSM pathways
 - Complete discussion of monitoring and operation and maintenance if an O&M plan is completed as part of design report
 - Continuing obligations
 - Financial assurance per NR 756
 - O&M plan (NR 724.13)
 - Off-site included
 - Sediment cap requirements



Rule Revisions – Contaminated Sediment

- NR 724 (cont.)
 - NR 724.17 long-term monitoring results report – requirements for sediment caps





Rule Revisions – Contaminated Sediment

- NR 726
 - Language for sediment sites
 - Criteria for closure at sediment sites (NR 726.05)
 - Pathway investigated per NR 716
 - Ecological and human health risks per NR 722
 - RA conducted
 - Laws and standards met
 - Financial assurance obtained, if required



Rule Revisions – Contaminated Sediment

- NR 726 (cont.)
 - Closure letter language (NR 726.15)
 - Residual sediment contamination
 - Structure or engineering control for prevention of direct contact with sediment
 - Structural impediments
 - Site-specific conditions



Rule Revisions – Contaminated Sediment

- NR 727
 - Continuing obligations for sediment (NR 727.05)
 - Property owner requirements (Act 204 consistency)
 - Responsible party requirements



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Thank you!

