

**Technical Focus Group Meeting Minutes  
Remediation and Redevelopment Program  
October 13, 2011**

Introduction

The eleventh joint meeting of the Technical Focus Group/Brownfield's Study Group was held to continue discussions on proposed revisions to the NR 700 rule series. The purpose of this meeting was to discuss any major items that needed clarification or modification prior to starting the formal rule making process. Below is a brief summary of the discussions that took place.

General Areas of Discussion

A question was asked whether surrogates such as radon could be used when completing an evaluation of indoor air quality. The Department explained that we are moving away from indoor air sampling for industrial and many commercial properties and instead are relying on pressure/communication testing to ensure the system is working correctly. The Department of Health also indicated that based on previous testing, radon can be an imperfect surrogate. A related question focused on what happens when a property owner won't grant access to evaluate the potential for vapor intrusion. The Department indicated that in the majority of cases we are able to obtain access through discussions with the property owner and with assistance from the state and local health departments.

Discussion took place regarding the rule language in s. NR 726.05(8) that sets out the criteria for closure for sites with vapor contamination. Concerns were raised with the provision that states "a site may not request closure until" because the Department can't prohibit someone from submitting a closure request. It was ultimately agreed to change "may not request" to "is not eligible for".

The discussion then turned to the status of issuing draft guidance on using the new EPA web calculator. The Department indicated the draft guidance along with a table containing generic levels for all compounds and a spreadsheet that can be used to assess cumulative affects should be out for external comment by the end of the year. If external feedback supports the use of the new web calculator, it would be the Department's intent to finalize the guidance and begin allowing use of the new approach. Concerns were raised that the Department be sure sufficient authority exist in rule to allow this approach to be utilized.

On a related topic, it was pointed out that the only reference to averaging soil sampling results in NR 720 related was in a note. The Department agreed to expand the existing rule language to state that alternative options such as soil averaging could be approved.

The next topic related to what options exist or could be included in the rule to help keep sites moving forward to complete cleanup before fiscal problems and bankruptcy prevent

Responsible Parties from completing the process. The Department explained that a number of rule changes are being proposed (such as semi-annual progress reports) to keep a better handle on sites. In addition, we have a new performance measure that requires staff to check on the status of the cleanup with every site at least annually. One suggestion was that DNR should consider putting a flag on the Activity Detail Page of BRRTS on the Web (similar to the continuing obligation symbol) to signify if a site appears to be stalled.

### Rule Schedule/New Rulemaking Process

At the end of the specific rule related discussions, the Department briefly went over the rule development schedule and also summarized the changes in the rulemaking process as a result of Act 21. The Department is planning to request approval to hold public hearings from the Natural Resources Board at their January meeting. This will require that the proposed rule language be in a final draft form by mid-November.

The next step is to develop an Economic Impact Analysis in consultation with businesses, associations representing businesses, local governmental units and individuals that may be affected by the proposed rule. The analysis must contain information on the economic effect of the proposed rule on specific businesses, business sectors, public utility ratepayers, local governmental units, and the state's economy as a whole. In addition, the analysis must be completed before the proposed rule is submitted to the Legislative Council for review by the rules clearinghouse.

The group generally discussed what information would be appropriate to include in an Economic Impact Analysis. It was ultimately recommended that the Department prepare a draft economic analysis for review and comment. The goal was to complete a draft and then share it with members of the committee by early December so discussions could begin at the December meeting.

### Summary

In general, participants were supportive of moving forward with the rulemaking process. The Department agreed to send out a draft economic analysis for review and hold an initial meeting to go over the comments on December 15<sup>th</sup>. The group also suggested that the Department "check-in" with various interest groups including WMC, Wisconsin Utilities Association, the Paper Council, and others as appropriate.