

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

Subject matter (group/subgroup): Other / Housekeeping & Misc.

Author(s): Molly Schmidt, Gena Larson, Michael Prager

Changes (include treatment, list in order of rules):

NR 700.03 (11m) is amended to read:

NR 700.03 (11m) "Department database" means the publicly accessible database available on the internet as required by ss. 292.12, 292.31, and 292.57, Stats.

Note: The Remediation and Redevelopment Program maintains a database called the "Bureau for Remediation and Redevelopment Tracking System" or "BRRTS". The program also maintains an internet accessible version of this database, called "BRRTS on the Web", or "BOTW". "BOTW" includes information on properties where a hazardous substance discharge has or may have taken place. The program also maintains a web-based mapping system called "Remediation and Redevelopment Sites Map" or "~~RRSM~~ "RR Sites Map" that allows users to view spatial information from ~~the BRRTS database~~ BOTW using a geographic information system (GIS) application. Both these applications may be found at <http://dnr.wi.gov/topic/Brownfields/clean.html> <https://dnr.wi.gov/topic/Brownfields/WRRD.html>.

NR 700.03 (56) is amended to read:

NR 700.03 (56) "Site" means:

(a) Any site or facility as defined in s. 292.01 (18), Stats., including a waste site as defined in s. 292.01 (21), Stats.; or

(b) Any area where a hazardous substance has been discharged.

Note: Section 292.01 (21), Stats., defines "waste site" to mean "any site, other than an approved facility, an approved mining facility or a nonapproved facility, where waste is disposed of regardless of when disposal occurred or where a hazardous substance is discharged before May 21, 1978."

Note: Section 292.01 (18), Stats. defines "site or facility" to mean, except in s. 292.35, an approved facility, an approved mining facility, a nonapproved facility or a waste site.

NR 700.03 (60) is amended to read:

NR 700.03 (60) "Submittal" means any document, report, plan, set of specifications, engineering design, electronic file, or scientific evaluation of site data that is prepared to satisfy the requirements of chs. NR 700 to 754 758 or to request department assistance pursuant to s. 292.55, Stats.

NR 700.11 (3g) is amended to read:

NR 700.11 (3g) Number and format of submittals. One ~~paper copy and one~~ electronic copy of each plan or report shall be submitted to the department, unless otherwise directed by the department. The electronic copy shall be submitted ~~on optical disk media and may not be submitted as electronic mail attachments unless specifically approved in advance~~ using electronic methods approved by the department. Electronic copy files shall have a minimum resolution of 300 dots per inch, and may not be locked or password protected. The department may request that the electronic copy of sampling results be submitted in a format that can be managed in software that is in a format approved by the department. ~~An electronic copy of certain types of voluminous attachments or appendices may be substituted for the paper copy, if specifically approved in advance by the department.~~ All documents shall be digital format versions rather than scanned versions except documents that are only available as scanned versions. Deeds and legal descriptions may be scanned versions.

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

All information submitted shall be legible. Document submittals to the department are public records unless confidentiality is granted through limited scope of the procedure found in Wis. Admin. Code s. NR 700.05. Submittals shall not indicate a document is confidential, settlement confidential, privileged or limited in applicability or use by future property owners or the department.

Note: Guidance for GIS Registry submittals outlines how approved methods for submitting electronic copies should be submitted in the Adobe Portable Document Format (PDF) on optical disk media. This guidance can be accessed at <http://dnr.wi.gov/files/PDF/pubs/rr/RR690.pdf>.

Note: ~~The department strongly recommends the use of 2-sided copies for the paper copy of the report, and the use of accordion folders for larger reports instead of 3-ring binders, to help address file space issues.~~

~~—Note: An example of a voluminous attachment is a laboratory quality assurance and control report.~~

Note: ~~Examples of formats that can be managed in software are spreadsheets, plain text tabular files, hypertext markup language files (HTML) and extensible markup language files (XML).~~

Note: ~~The department intends to implement an electronic document management system in the future that may require the submittal of all plans or reports in electronic format that can be managed in software.~~

NR 700.11 (3r) is amended to read:

NR 700.11 (3r) Technical or liability assistance. When requesting technical assistance or liability clarification from the department, ~~the~~ each request shall be submitted with any fee required under ch. NR 749 and on a form supplied by the department.

Note: ~~The Technical Assistance and Environmental Liability Clarification Request form may be accessed at <http://dnr.wi.gov/topic/Brownfields/Pubs.html>. Other forms are used for the following requests: off-site liability exemption or liability clarification requests, lender liability exemption requests, exemption to develop on a historic fill site, closure requests, or operation and maintenance requests. These forms may be accessed at <http://dnr.wi.gov/topic/Brownfields/Pubs.html>. Forms to request technical assistance or liability clarification from the department can be found at <https://dnr.wi.gov/topic/Brownfields/Fees.html>.~~

NR 700.11 (4) is created to read:

NR 700.11 (4) Completeness. Submittals are not complete and will not be considered to have been received by the department unless the requirements stated within this section are met.

NR 700.15 is created to read:

NR 700.15 Property information.

(1) Deed and parcel information. (a) Unless otherwise provided by the department in writing, and except as provided at par. (b), where deed and parcel information are required by chapters NR 700 through NR 758, all of the following information shall be included for each right-of-way and property within or partially within the contaminated site boundaries:

1. A copy of the most recent recorded deed shall be obtained and submitted. If the most recent recorded deed does not include a legal description, then the most recent deed that includes the legal description must be included in addition to the most recent recorded deed. In situations where a buyer has purchased property under a land contract and has not yet received a recorded deed, a copy of the land contract which includes the legal description shall be submitted.

2. A copy of the certified survey map or the relevant portion of the recorded plat map for those properties where the legal description in the most recent recorded deed or land contract refers to a certified survey map or a recorded plat map. In cases where the certified survey map or recorded plat map are not legible or are unavailable, a copy of a parcel map from a county land information office may be substituted. A copy of a

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

parcel map from a county land information office shall be legible, and the parcels identified in the legal description shall be clearly identified and labeled with the applicable parcel identification number.

3. The most recent parcel identification numbers for each property.

(b) Copies of deeds, or other documents with legal descriptions, are not required to be submitted for contaminated public-street or highway rights-of-way or railroad rights-of-way unless the source of the contamination is in the right-of-way.

(2) Geographic position. Unless otherwise provided by the department in writing, where geographic position information is required by chapters NR 700 through NR 758, all of the following information for each property within or partially within the contaminated site boundaries shall be obtained and submitted to the department in accordance with the following requirements:

(a) `Format.' For all properties, a single point geographic position shall be obtained for a location as close to the center of the property as possible. If requested by the department, coordinates describing the approximate location of the property's boundaries, forming a polygon, shall be obtained and submitted.

(b) `Geographic coordinates.' Latitude and longitude coordinates shall be submitted in decimal degrees format with a precision of six digits right of the decimal.

(c) `Acceptable methods.' Acceptable methods for obtaining geographic position data include direct location or interpolation from other features using a base map of 1:24000 scale or finer, aerial photography of 18-inch resolution or finer, mapping grade or better global positioning system technology, or other methods providing comparable accuracy that have been approved by the department.

NR 706.05 (3m) is amended to read:

NR 706.05 (3m) Location of the hazardous substance discharge, including street address, county, town, city or village, if appropriate, ~~quarter-quarter section, township, range, and~~ geographic position obtained in accordance with the requirements of ~~s. NR 716.15 (5) (d)~~ NR 700.15 (2), and legal description of lot, if located in a platted area.

Note: The provisions in ~~s. NR 716.15 (5) (d)~~ require that all geographic position data shall be obtained and submitted to the department in accordance with the following requirements: 1) for properties that are not more than 200 feet wide or long, a single point geographic position shall be obtained at least 40 feet within the boundaries of the property, or as close to the center of the property as possible if the property is less than 80 feet wide or long. For properties that are more than 200 feet wide or long, coordinates describing the approximate location of the property's boundaries, forming a polygon, shall be obtained; and 2) geographic position data shall be originally collected in Wisconsin Transverse Mercator '91 or projected onto Wisconsin Transverse Mercator '91.

NR 708.05 (6) (c) (3) is amended to read:

NR 708.05 (6) (c) (3) Location of the site or facility, or discharge incident, including street address; ~~quarter-quarter section, township, range, and~~ county; and the location information specified in ~~s. NR 716.15 (5) (d)~~ NR 700.15 (2); ~~latitude and longitude~~, and legal description of lot, if located in platted area.

NR 708.15 (3) (b) is amended to read:

NR 708.15 (3) (b) Location of the site or facility, or discharge incident, including street address; ~~quarter-quarter section, township, range, and~~ county; the location information specified in ~~s. NR 716.15 (5) (d)~~ NR 700.15 (2); ~~latitude and longitude~~, and legal description of lot, if located in platted area.

NR 708.16 (4) is created to read:

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

NR 708.16 (4) Responsible parties shall comply with the documentation requirements listed in pars. (a) through (f) unless otherwise directed by the department:

(a) Submit an interim action report, in compliance with NR 708.15.

(b) Provide the geographic position of the property on which a response action was taken, as well as for any other properties within the contaminated site boundaries, in accordance with the requirements of s. NR 700.15 (2).

(c) Provide deed and parcel information in accordance with the requirements of s. NR 700.15 (1).

(d) Include one or more photographs documenting the condition and extent of the feature at the conclusion of the response action required by the department for sites or facilities with an engineering control or other performance standard, a structural impediment, a vapor mitigation system or a fence, or as otherwise required by the department on a case-by-case basis. Pertinent features shall be visible and discernible. Photographs shall be submitted with a title related to the site name and location, compass direction of photograph, and the date on which it was taken.

(e) Provide a site location map that outlines each property within or partially within the contaminated site boundaries on a United States geographic survey topographical map or plat map in sufficient detail to permit the parcels to be located easily. This map shall identify the location of all municipal and potable wells within 1200 feet of the site. If there is only one parcel, this map may be combined with the map required in par. f.

(f) Include, if available, a map of each property within or partially within the contaminated site boundaries, showing buildings, roads, property boundaries, contaminant sources, utility lines, monitoring wells, and potable wells. This map shall also show the location of all contaminated public-street and highway rights-of-way and railroad rights-of-way in relation to the source property and in relation to the boundaries of contamination exceeding applicable standards.

** PLEASE NOTE that the rule revision listed above builds on (and supersedes) rule revisions discussed at previous Rule Development Meetings. Please see draft rule revisions for 4/9/2019 Rule Development Meeting, titled, [Act 204 / database listing, fees, notifications \(second draft\)](#).*

NR 708.17 is amended as follows:

NR 708.17 (4) Documentation.

(a) Format Requirements. For sites or facilities required to be included on the department database following a response action, the local governmental unit or economic development corporation shall submit the information in par. (b) to the department, in accordance with s. NR 700.11 (3g). Maps and cross-sections shall be to scale, and include a graphic scale and a north arrow.

~~Note: Under s. NR 700.11 (3g), one paper copy and one electronic copy shall be submitted to the department, unless otherwise directed by the department. Electronic copies files may not be locked or password protected. All documents shall have a minimum resolution of 300 dots per inch. All documents except deeds and legal descriptions shall be digital format versions rather than scanned versions. Deeds and legal descriptions may be scanned versions. All information submitted shall be legible.~~

(b) Database Information. The information for the department database shall be submitted in the following order and format.

1. The geographic position of the property on which a response action was taken, as well as for any other properties affected by the release, in accordance with the requirements of ~~s. NR 716.15 (5) (d)~~. s. NR 700.15 (2).

~~Note: The geographic position, provided in WTM coordinates, can be obtained by using RR Sites Map, at <http://dnrmaps.wi.gov/imf/imf.jsp?site=brts2>, using the XY button.~~

2. A description of the response actions taken at the site or facility.

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

3. A copy of any required maintenance plan if a continuing obligation is required as part of the response action.

4. For sites or facilities with a cover or other performance standard, a structural impediment, a vapor mitigation system or a fence, or as otherwise required by the department on a case-by-case basis; one or more photographs documenting the condition and extent of the feature at the conclusion of the response action required. Pertinent features shall be visible and discernible. Photographs shall be submitted with a title related to the site name and location, and the date on which it was taken.

5. ~~Deed and parcel information in accordance with NR 700.15 (1). A copy of the most recent deed which includes the legal description of each property, except that, in situations where a buyer has purchased property under a land contract and has not yet received a deed, a copy of the land contract which includes the legal description shall be submitted.~~

~~Note: Copies of deeds, or other documents with legal descriptions, are not required to be submitted for contaminated public street or highway rights-of-way or railroad rights-of-way. It is only in the situation where the source of the contamination is in the right-of-way, that a right-of-way will be listed on the department database as a separate property.~~

~~NR 708.17(4)(b)6. 6. A copy of the certified survey map or the relevant portion of the recorded plat map for those properties where the legal description in the most recent deed or land contract refers to a certified survey map or a recorded plat map. In cases where the certified survey map or recorded plat map are not legible or are unavailable, a copy of a parcel map from a county land information office may be substituted. A copy of a parcel map from a county land information office shall be legible, and the parcels identified in the legal description shall be clearly identified and labeled with the applicable parcel identification number.~~

~~7. The parcel identification number or numbers for each property.~~

~~86. A statement that the deeds with legal descriptions of all affected properties have been submitted.~~

~~97. A site location map that outlines each property within or partially within the contaminated site boundaries on a United States geographic survey topographical map or plat map in sufficient detail to permit the parcels to be located easily. This map shall identify the location of all municipal and potable wells within 1200 feet of the site. If there is only one parcel, this map may be combined with the map required in subd. 108.~~

~~108. If available, a map of each property within or partially within the contaminated site boundaries, showing buildings, roads, property boundaries, contaminant sources, utility lines, monitoring wells, and potable wells. This map shall also show the location of all contaminated public-street and highway rights-of-way and railroad rights-of-way in relation to the source property and in relation to the boundaries of contamination exceeding applicable standards.~~

NR 714.05 (5) is amended to read:

NR 714.05 (5) Requests for ~~site~~ site-specific or ~~facility~~ facility-specific responses. Interested persons may request, in writing, that the department keep them informed of approvals or rejections of the response actions being taken at a site or facility. The department shall maintain a list of persons interested in a specific site or facility and provide them with either electronic emailed copies or hard copies of any department approvals or rejections for all of the following documents:

- (a) Site investigation workplans.
- (b) Site investigation reports.
- (c) Remedial action options reports.
- (d) Requests for case closure.

NR 714.07 (3) is amended to read:

NR 714.07 (3) Methods of public notification. Notice shall be provided to the public by means designed to reach those members of the public directly or indirectly affected by the discharge of a hazardous substance

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

and the implementation and operation of any proposed or actual remedial action. The department may direct the responsible party to undertake any of the following public participation activities, and may require departmental approval of materials prepared by the responsible party in order to conduct these activities. The department may also undertake any of these activities, including personal contacts by department staff. Notice to the public may be provided by any of the following methods:

- (a) Public notice in local newspapers.
- (b) ~~Block advertisements~~ Advertisements, including posters, in areas frequented by the public.
- (c) Distributing leaflets or other informational materials door-to-door in the vicinity of the site or facility.
- (d) Letters, emails, or both, to individual households or personal contacts by responsible parties or their representatives.
- (e) Contacting appropriate government officials, including law enforcement, emergency response, and health officials to inform them of the circumstances and the response actions that are underway to contain, reduce, or eliminate the threat of the contamination.
- (f) Contacting media by preparing radio, newspaper, or television announcements, including public service announcements.
- (g) Contacting any interested individuals who have asked to be kept informed of site or facility activities at various points in the process, including any other site-specific information itemized by the requestor that is available from the responsible party, including sample results, emergency or interim actions, disposal of wastes removed from the site, requests for case closure, or enforcement actions.
- (h) Holding advertised public informational meetings designed to provide the public an opportunity to ask questions and receive answers from the responsible party, the department, or both.
- (i) Establishing a clearinghouse, toll-free telephone number ~~or internet~~ and web site location where the public may obtain more information about the site or facility and the proposed or actual remedial actions, as well as submit comments and receive responses regarding activities that may generate noise, dust, odors, traffic, or similar local concerns.
- (j) Using any other appropriate mechanisms to contact and inform the public, including the opportunity to submit public comments on proposed remedial activities and to receive written responses.

NR 716.03 (8) is amended to read:

NR 716.03 (8) "Replicate ~~sample~~" has the meaning specified in s. NR 149.03 (70).

Note: Section NR 149.03 (70) defines "replicate ~~sample~~" to mean "2 or more substantially equal aliquots analyzed independently for the same parameter." ~~This is also known as a "duplicate."~~

NR 716.09 (1) is amended to read:

NR 716.09 (1) General. Unless otherwise directed by the department, in cases where a site investigation is required under s. NR 716.05, responsible parties shall submit a work plan to the department within 60 days of receiving notification that a site investigation is required, describing the intended scope and conduct of a field investigation. One ~~paper copy and one~~ electronic copy of the plan shall be submitted to the department, unless otherwise directed by the department, in accordance with s. NR 700.11 (3g).

Note: Guidance for Electronic Submittals for the GIS Registry department database outlines how electronic copies should be submitted in the Adobe Portable Document Format (PDF) on optical disk media. This guidance can be accessed at <http://dnr.wi.gov/files/PDF/pubs/rr/RR690.pdf>.

NR 716.09 (2) (a) is amended to read:

NR 716.09 (2) (a) Site name, address, and ~~location by quarter-quarter section, township, range and county, and~~ the location information specified in ~~s. NR 716.15 (5) (d)~~ NR 700.15 (2).

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

Note: Section NR 716.15 (5) (d) requires submittal of Wisconsin Transverse Mercator (WTM) coordinates.

NR 716.13 (6) (c) (1) is amended to read:

NR 716.13 (6) (c) (1) One replicate duplicate sample for every 10 or less samples.

NR 716.15 (2) (c) (4)

NR 716.15 (2) (c) (4) Site or facility name, address, and location information specified in NR 700.15 (2). ~~by quarter-quarter section, township, range, and county, along with the Wisconsin Transverse Mercator coordinates for the site.~~ The location of the property and the contamination shall be given in sufficient detail to allow department personnel to inspect the property and the contaminated area.

Note: The requirements for locating monitoring wells are contained in s. NR 141.065. Specifically regarding areal location, this section requires that the wells be shown on a plan map with a grid system that is located according to latitude and longitude, or according to a state plane coordinate system. The plan map must show the exact location of the installed well on a horizontal grid system which is accurate to within one foot.

NR 716.15 (5) is amended as follows:

NR 716.15 (5) Deed and locational information. All of the ~~following~~ information required under s. NR 700.15 shall be included in the site investigation report for each property within or partially within the contaminated site boundaries.:

~~(a) A copy of the most recent deed, which includes the legal description.~~

~~(b) A copy of the certified survey map or the relevant portion of the recorded plat map for those properties where the legal description in the most recent deed refers to a certified survey map or a recorded plat map.~~

~~(c) The parcel identification numbers for each property.~~

~~(d) Geographic position. All geographic position data shall be obtained and submitted to the department in the site investigation report in accordance with the following requirements:~~

~~1. 'Format.' For properties that are not more than 200 feet wide or long, a single point geographic position shall be obtained at least 40 feet within the boundaries of the property, or as close to the center of the property as possible if the property is less than 80 feet wide or long. For properties that are more than 200 feet wide or long, coordinates describing the approximate location of the property's boundaries, forming a polygon, shall be obtained.~~

~~2. 'Coordinate system.' Geographic position data shall be originally collected in Wisconsin Transverse Mercator '91 or projected onto Wisconsin Transverse Mercator '91.~~

~~Note: Information about the Wisconsin Transverse Mercator '91 projection is available on the internet at <http://dnr.wi.gov/maps/gis/wtm8391.html>.~~

~~3. 'Acceptable methods.' Acceptable methods for obtaining geographic position data include direct location or interpolation from other features on a base map of 1:24000 scale or finer, differentially corrected global positioning system data, or other methods capable of similar or superior accuracy that have been approved by the department.~~

~~4. 'Required information.' The following information is required for all properties: the name of the county where the property is located, the collection method used, and the scale or resolution of original source of geographic position for on-screen digitizing.~~

NR 718.05 (2) (h) (5) is amended to read:

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

~~NR 718.05 (2) (h) (5) The address and location by quarter–quarter section, township, range and county, along with the geographic position, as specified in s. NR 700.15 (2), of the property from which the soil was excavated, determined in accordance with the requirements of s. NR 716.15 (5) (d), and the latitude and longitude of the property from which the soil was excavated.~~

NR 718.05 (2) (h) (7) is amended to read:

~~NR 718.05 (2) (h) (7) The address and location by quarter–quarter section, township, range and county, along with the geographic position, as specified in s. NR 700.15 (2), of the property where the soil is stored, determined in accordance with the requirements of s. NR 716.15 (5) (d), and the latitude and longitude of the property where the soil is stored.~~

NR 718.05 (2) (i) (5) is amended to read:

~~NR 718.05 (2) (i) (5) The address and location by quarter–quarter section, township, range and county, along with the geographic position, as specified in s. NR 700.15 (2), of the property where the soil is stored, determined in accordance with the requirements of s. NR 716.15 (5) (d), and the latitude and longitude of the property where the soil is stored.~~

NR 718.09 (4) (b) (2) is amended to read:

~~NR 718.09 (4) (b) (2) All locations of sites from which contaminated soil was excavated by address and location by quarter–quarter section, township, range and county, along with the geographic position determined in accordance with the requirements of s. NR 716.15 (5) (d) as specified by s. NR 700.15 (2), and the latitude and longitude.~~

NR 718.09 (4) (b) (5) is amended to read:

~~NR 718.09 (4) (b) (5) The address and location by quarter–quarter section, township, range and county, along with the geographic position determined in accordance with the requirements of s. NR 716.15 (5) (d) as specified by s. NR 700.15 (2), and the latitude and longitude of the treatment site.~~

NR 718.12 (2) (b) (3) is repealed.

***Note to readers** This proposed rule change above was presented as part of “soil management rule revisions”, as a second draft at the June 4, 2019, Rule Development Meeting, and is being included herein for clarity (the repealed text contains relevant language to this subject matter).*

NR 718.12 (2) (c) (2) is amended to read:

~~NR 718.12 (2) (c) (2) The address and location, by quarter–quarter section, township, range, and county, along with the geographic position, as specified in s. NR 700.15 (2), determined in accordance with the requirements of s. NR 716.15 (5) (d), and the latitude and longitude of the site, or facility, or non-metallic mine where the contaminated soil or contaminated sediment is to be placed.~~

***Note to readers** Portions of the proposed change above were originally presented as part of “soil management rule revisions”, as a second draft at the June 4, 2019, Rule Development Meeting.*

NR 722.09 (2) (f) is created to read:

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

NR 722.09 (2) (f) *Drinking water*. Contaminated drinking water shall be restored in accordance with the following requirements:

1. The water supply for any community or non-transient non-community public water system as defined in ch. NR 809 shall be restored in accordance with maximum contaminant level standards set forth in ch. NR 809.

2. The water supply for any transient non-community public water system as defined in ch. NR 809 and any private water system as defined in ch. NR 812, must meet the applicable standards for groundwater in par. (b) or surface water and wetland standards described in par. (c).

3. Where there are no standards available in subs. (1) or (2), the responsible party shall seek the approval of the department and the department of health services to establish a site-specific drinking water standard.

NR 722.17 is amended to read:

NR 722.17 Department database requirements for remedial actions approved with a continuing obligation.

(1) For sites or facilities where the department has approved a remedial action that includes a continuing obligation which meets any of the criteria in ss. NR 722.15 (2) (e) and 725.05 (2), the department may require that the site or facility, including all properties and rights-of-way within the contaminated site boundaries, be included on the department database. At a minimum, the department shall include on the database any requirements, limitations, or conditions imposed under ss. 292.12 (2) (a) to (c), Stats. for the approval of a remedial action and any information required under s. 292.12 (2) (d) Stats. for the approval of a remedial action.

(2) The site or facility remedial action plan approval letter shall be associated with the site or facility record in the department database, for those sites required to be included on the department database.

(3) The fees required by ch. NR 749 shall be submitted to the department.

Note: Under s. 292.12 (3) (b), Stats., the department has authority to charge a fee for placement on a department database.

(4) Documentation requirements shall meet s. NR 700.15 and s. NR 726.11, to the extent practicable.

***Note to readers** Portions of the proposed change above were originally presented as part of "Act 204 – database...", as a second draft at the April 9, 2019, Rule Development Meeting.*

NR 724.05 (2) (b) is amended to read:

NR 724.05 (2) (b) ~~One paper copy and one~~ electronic copy of each plan or report shall be submitted to the department, in accordance with s. NR 700.11 (3g).

Note: Electronic copies should be submitted in the Adobe Portable Document Format (PDF) on optical disk media in a method approved by the department. Guidance on electronic submittals can be accessed at <http://dnr.wi.gov/files/PDF/pubs/rr/RR690.pdf>.

NR 724.05 (2) (e) (2) (d) is amended to read:

NR 724.05 (2) (e) (2) (d) ~~Site name, address, and location by quarter-quarter section, township, range and county, and geographic position as specified by s. NR 700.15 (2) determined in accordance with the requirements of s. NR 716.15 (5) (d), and the latitude and longitude of the property.~~

NR 726.05 (5) is amended to read:

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

NR 726.05 (5) Completeness. A case closure request shall be complete and meet the documentation requirements of ss. NR 726.09 and 726.11 if applicable. The department shall not approve case closure for a site or facility until all submittals required under chs. NR 700 through NR 758 for the site or facility are received by the department, including, where applicable:

(a) Semi-annual site progress reports required under ch. NR 700.

(b) Reports and documentation for any immediate or interim actions required under ch. NR 708.

(c) Any professional certifications and signatures that are required to be included with applicable submittals under ch. NR 712.

(d) Work plans and site investigation reports required under ch. NR 716.

(e) Remedial action options report required under ch. NR 722, with the selected remedial action identified.

(f) Design, construction documentation, operation, maintenance and monitoring plans and reports required under ch. NR 724.

(g) Submittals that confirm that continuing obligations have been identified and affected property owners have been notified pursuant to ch. NR 725.

(h) Forms and requirements for closure pursuant to ch. NR 726.

(i) Payment of fees pursuant to ch. NR 749, including closure and database fees.

Note: Incomplete closure requests may be denied. The review fee may be applied to review of the site investigation for grossly incomplete closure requests, on a case-by-case basis. A closure review fee would be required when a complete closure request is then submitted.

NR 726.07 (1) is amended to read:

NR 726.07 (1) All sites or facilities meeting any of the criteria in s. NR 725.05 (2) or 726.13 (1) (c), upon approval of the closure request under ch. NR 726, shall be entered onto the department database. All properties within or partially within the contaminated site or facility boundaries, including all public street and highway rights-of-way and railroad rights-of-way, shall be included.

Note: Information on residual groundwater or soil contamination that has migrated onto a right-of-way will be found in the documents that are submitted as part of the case closure request for the source property. It is only in the situation where the source of the contamination is in the right-of-way, that a right-of-way will be listed on the department database as a separate property. In those situations, the maps that are required to be submitted, as an attachment to the case closure request for the site, will show where contaminated groundwater or soil samples were collected and will provide points of reference for locating residual contamination in the right-of-way.

NR 726.09 (2) (g) is amended to read:

NR 726.09 (2) (g) Submit to the department documentation that all other closure conditions have been satisfied, within 120 days after the department provides a ~~conditional closure~~ remaining actions needed response.

Note: This requirement is meant to cover well abandonment and any other minor condition identified in a ~~conditional closure~~ remaining actions needed letter. It does not apply to the continuing obligations specified in the final closure letter. Ch. NR 141 requires the documentation of well abandonment on a form supplied by the department. The well abandonment form, 3300-005, can be accessed at <http://dnr.wi.gov/topic/DrinkingWater/documents/forms/3300005.pdf> by visiting <http://dnr.wi.gov> and searching "3300-005".

NR 726.11 (1) (b) is amended to read:

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

NR 726.11 (1) (b) Information shall be submitted in accordance with s. NR 700.11 (3g), unless otherwise directed by the department. Providing illegible information may result in a submittal being considered incomplete until corrected unless otherwise directed by the department.

Note: Under s. NR 700.11 (3g), "One paper copy and one electronic copy of each plan or report shall be submitted to the department, unless otherwise directed by the department. The electronic copy shall be submitted on optical disk media and may not be submitted as electronic mail attachments unless specifically approved in advance by the department. Electronic copy files shall have a minimum resolution of 300 dots per inch, and may not be locked or password protected. The department may request that the electronic copy of sampling results be submitted in a format that can be managed in software. An electronic copy of certain types of voluminous attachments or appendices may be substituted for the paper copy, if specifically approved in advance by the department. All documents shall be digital format versions rather than scanned versions except documents that are only available as scanned versions. Deeds and legal descriptions may be scanned versions. All information submitted shall be legible."

NR 726.11 (4) is amended to read:

NR 726.11 (4) Deed and parcel information. Responsible parties or other persons requesting closure shall submit all of the following items, for each property within or partially within the contaminated site boundaries ~~other than public street or highway rights-of-way or railroad rights-of-way~~:

(a) Deed and parcel information in accordance with s. NR 700.15 (1). ~~A copy of the most recent deed which includes the legal description of each property, except that, in situations where a buyer has purchased property under a land contract and has not yet received a deed, a copy of the land contract which includes the legal description shall be submitted, except that copies of deeds, or other documents with legal descriptions, are not required to be submitted for contaminated public street or highway rights-of-way or railroad rights-of-way unless the source of the contamination is in the right of way. If the source of contamination is in the right of way, that right of way will be listed on the department database as a separate property.~~

~~—Note: Copies of deeds, or other documents with legal descriptions, are not required to be submitted for contaminated public street or highway rights-of-way or railroad rights-of-way. Information on residual groundwater or soil contamination that has migrated onto a right-of-way will be found in the documents that are submitted as part of the case closure request for the source property. It is only in the situation where the source of the contamination is in the right of way, that a right of way will be listed on the department database as a separate property. In those situations, the maps that are required to be submitted, as an attachment to the case closure request for the site, will show where contaminated groundwater or soil samples were collected and will provide points of reference for locating residual contamination in the right-of-way.~~

(b) Geographic position data for each property in compliance with the requirements of s. NR 700.15 (2), unless the agency has directed that the responsible party or other person requesting closure does not need to provide geographic position data for a specific site. ~~A copy of the certified survey map or the relevant portion of the recorded plat map for those properties where the legal description in the most recent deed or land contract refers to a certified survey map or a recorded plat map. In cases where the certified survey map or recorded plat map are not legible or are unavailable, a copy of a parcel map from a county land information office may be substituted. A copy of a parcel map from a county land information office shall be legible, and the parcels identified in the legal description shall be clearly identified and labeled with the applicable parcel identification number.~~

(c) A statement signed by the responsible party or other person requesting closure affirming that he or she believes that legal descriptions for all of the properties within or partially within the contaminated site's or facility's boundaries where inclusion on a department database is required under s. NR 726.07, at the time that case closure is requested, other than public street or highway rights-of-way or railroad rights-of-way, have been submitted to the agency as part of a department database attachment to the case closure request.

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

(d) A list of addresses of all properties and rights-of-way affected by residual contamination or a continuing obligation.

~~Note: There is a section in the closure request form on which this information is to be entered.~~

~~(e) The parcel identification number for each property.~~

~~(f) Geographic position data for each property in compliance with the requirements of s. NR 716.15 (5) (d), unless the agency has directed that the responsible party or other person requesting closure does not need to provide geographic position data for a specific site.~~

~~Note: Geographic position data for properties can be found by using the department database that is available on the internet at <http://dnr.wi.gov/topic/Brownfields/rsm.html>.~~

** PLEASE NOTE that the rule revision listed above builds on (and supersedes) rule revisions discussed at previous Rule Development Meetings. Please see draft rule revisions for 4/9/2019 Rule Development Meeting, titled, [Act 204 / database listing, fees, notifications \(second draft\)](#).*

NR 726.11 (7) is amended to read:

NR 726.11 (7) Documentation for monitoring wells. For sites or facilities where a monitoring well has not been abandoned in accordance with the requirements of ch. NR 141 at the time of case closure, the following information shall be included in a department database attachment to the case closure request.

(a) A site location map with the surveyed locations identified on the map for those groundwater monitoring wells that have not yet been abandoned;

(b) The well construction report for each monitoring well that needs to be abandoned; and

(c) The most recent recorded deed with legal description for each property on which a monitoring well is located.

Note: This would include wells that have not been located for abandonment, wells that the property owner has requested to keep and not abandon at this time, and those wells required by the agency under s. NR 726.05 (7) (a) for continued monitoring after closure. Proper abandonment is required once the wells are no longer used. The well construction report, form 4400-113A can be obtained at http://dnr.wi.gov/topic/Groundwater/documents/forms/4400_113_1_2.pdf.

NR 727.09 (2) is amended to read:

NR 727.09 (2) Updating a groundwater use restriction. For cases that have been closed conditioned upon the recording of a groundwater use restriction, the responsible party or property owner may, at any time after groundwater contaminant concentrations fall below ~~ch. NR 140 preventive action limits enforcement standards~~, apply for ~~unconditional~~ case closure and may request that the agency issue an affidavit that can be recorded at the county register of deeds office to give notice that the previously recorded groundwater use restriction is no longer required. The responsible party may also apply for a preventive action limit exemption under s. NR 140.28 if concentrations fall below ch. NR 140 enforcement standards and the appropriate criteria under s. NR 140.28 are met. Once an exemption is granted under s. NR 140.28, the responsible party may request that the agency issue an affidavit that can be recorded at the county register of deeds office to give notice that an exemption has been granted under s. NR 140.28 and that the previously recorded groundwater use restriction is no longer required.

Note: Prior to November, 2001, cases with groundwater enforcement standard exceedances were closed with a deed restriction, called a groundwater use restriction. The groundwater use restriction required department review and approval of a water supply well constructed or reconstructed on an affected property. Since November, 2001, these sites have been closed by adding them to a department database. Chapter NR 812 contains the requirement for department review and approval of any well constructed or reconstructed on a property listed on the ~~GIS Registry (department database)~~ department database. Responsible parties or

DRAFT rule revisions for 9/5/2019 Rule Development Meeting

property owners of sites or facilities or properties subsequently meeting groundwater enforcement standards may request to have the deed restriction updated and the site or property removed from the department database, or that the information on the database be modified.

NR 750.05 (1) is amended to read:

NR 750.05 (1) Application Submittal. An applicant shall submit to the department a completed application form for each property, requesting department oversight in reviewing and approving the proposed response actions. The applicant shall submit with each application a non-refundable fee of \$250.00, to cover the department's cost of reviewing and processing the application. The department may not review the application until the specified fee is submitted to the department. In addition to the application form, the applicant shall include any attachments required by the department, including a copy of the most recent recorded property deed and a map which clearly shows the boundaries of the property.

Note: The application form (Form 4400-178) is available by writing to the Bureau for Remediation and Redevelopment, P.O. Box 7921, Madison, WI 53707-7921. The application form is also available at <http://dnr.wi.gov/files/PDF/forms/4400/4400-178.pdf>.

NR 750.07 (1) (c) is repealed.

Plain language explanation/analysis:

The rule changes above are a combination of revisions needed to provide better direction or clarity; reflect current terminology and technology; update requirements regarding geolocation specifications; clarify that e-submittals are required for various required submittals; and similar.

Comparable state or federal rules or policies:

Not applicable.

Economic impact comments:

The rule changes above are not anticipated to incur economic impacts. Many of the revisions reflect clarifications of existing policies. Generally, rule revisions relating to documentation requirements and submittal methods are anticipated to reduce economic impacts on affected parties by streamlining requirements and allowing for the reduction of unnecessary printing and paper usage.