

Remediation and Redevelopment Program – Rule Development Meeting

April 9, 2019 | 10:00 a.m. to 1:00 p.m.

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

Conference call option: 1-855-947-8255 / Passcode: 6612 745#

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

Attendees: Sharlene TeBeest, WI DOT; Rob Langdon, SCS Engineers; Shelly Hildebrandt, Intertek-PSI; Marita Stollenwerk, TRC; John Zordani, Michael Best Strategies; Rodger Miller GEI; Tori Shaw, Key Engineering; Powell, Maria; Edward (Ned) Witte, Godfrey & Kahn; Frank Dombrowski, WE Energies; Richard C. Graham, DATCP; Curtis Hedman, WI DHS; Clara H. Jeong, DHS; Christine (Tina) A .Reese, The Reese Group; Geoffrey Siemering, UWEX; Jason Scott, WEDC; Benjamin J .Verburg, Arcadis; Judy Fassbender, DNR; Michael Prager, DNR; Pam Mylotta, DNR; Christine Haag, DNR; Molly Schmidt, DNR; Paul Grittner, DNR; Bill Nelson, DNR; Jenna Soyer, DNR; Carrie Webb, DNR

Agenda:

1. Welcome and Introductions

Rule development meetings are not part of the formal rule making public input process, they simply for input during development. Subjects are grouped and spread out over the drafting timeframe for discussion at public meetings. Rulemaking timeframe is due to legislation in 2017 – scope statements expire.

2. [Introductory white paper](#) regarding soil standards-related revisions to Wis. Admin. Code ch. NR 720. **Group action item: comments regarding white paper.**

Will the new direct contact standard apply to both residential and industrial? Yes. DNR is considering eliminating “soil to groundwater” RCL standards altogether for PAHs. The NR 720 cumulative assessment would still be required but there will be no numeric standard. An RP could make a case for why the levels on the property are protective. An absence of RCL for risk to groundwater does not mean that degree and extent don’t have to be defined. The code still requires this.

If a property has environmental pollution as urban fill will it still need to be delineated? NR 706 reporting requirements will not change. The new standard is not a threshold over which you need to report. New standard data will affect decision on how to move forward from there.

When will the proposed PAH-related changes go into effect? End of the rule making process. Requires formal public comment period (fall 2020). End of rule making process will be in 2021.

Changes proposed are primarily to address atmospheric deposition. There is and always has been the option of a site-specific calculation or background study. DNR is making No Action Required (NAR) determinations with this process now. The existing cumulative RCL calculator may continue to be used in the interim for residential sites.

Rule language for this topic will be presented at the public rule development meeting in June.

Is there a DNR document for how NAR determinations are made? There is documentation for how to do a site-specific calculation. That would be the most relevant available document.

For Cl-PAH compounds, what about areas where the exposure is less? (e.g. wetlands in recreation areas) Wetlands also affect non-humans, biota, etc. Other states have recreational standards for situations where exposure is much less than the standard 8 hours/day, etc. Wisconsin code says, "remediate to the extent practicable." A proposal for a site-specific risk assessment is an option. In this case, the site-specific option is the best approach within our current code.

- 3. Introductory [presentation](#) and draft rule changes regarding soil management-related revisions to Wis. Admin. Code chs. NR 708, NR 718, and NR 724.**
Group action item: comments regarding draft rule changes.

Impervious base is not otherwise defined in code. (DNR is proposing to remove language with examples of acceptable impervious base.)

Does management of soil or sediment trigger a public meeting? Dredging projects specifically. The public meeting is a NR 500 requirement and a NR 718 exemption would be exempting them from NR 500. DNR will look into this.

How will these changes apply to sites with PFAS? PFAS is a hazardous substance in Wisconsin because of how we define hazardous substance. Without a standard, there would not be a self-implementing option. DNR would work with a responsible party on a case-by-case basis to determine best approach.

Could groundwater extraction/treatment semi-annual reporting serve the purpose of NR 708? No. Reporting is still required at the conclusion of an interim or remedial action.

- 4. Review of [draft rule changes](#) (second draft) proposed to address statutory revisions made under 2015 Wis. Act 204, relating to:**
- a. Fees and procedures to include interim actions on database (NR 708, NR 714)**
 - b. Modify requirement to notify property owners to include sediment cover (NR 725)**
 - c. Database listings and notifications (NR 722, NR 725, NR 726)**
- Group action item: comments regarding draft rule changes.**

Is it appropriate to interpret that this applies to spill response? Spill response would fall under NR 708 immediate action. This applies to interim and remedial action. These changes address the statute change that clarifies interim action.

Do references to "database" refer to BRRTS? Yes.

Are there alternative ways to document contamination in the ROW when a plat map or deed/legal description (dedicated ROW, etc.) are not available or do not exist? Sharlene TeBeest will provide a paper from DOT legal counsel to the DNR. NR 726.11(4) has a note that addresses this.

- 5. Conclude and Adjourn**

Staff announced the [next meeting dates & topics](#):

- April 18th – Subgroup meeting to discuss financial responsibility and assurance for sediment sites.
- May 7th – Next external advisory group meeting. Draft documents will be available about a week ahead of the meeting.