

DRAFT rule revisions for 7/9/2019 Rule Development Meeting

Comments on this draft may be sent to DNRRNR700input@wisconsin.gov.

Subject matter (group/subgroup): NR 712 revisions/Other

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Changes:

NR 712.07 is amended to read:

NR 712.07 Requirements for submittal preparation. (1) Submittals that are prepared to satisfy the requirements of s. NR 708.11 (4) or 708.13 or chs. NR 716 to 754, which require the performance of engineering services or scientific evaluations, including phase I and phase II environmental site assessments shall be prepared by or under the supervision of a professional engineer, hydrogeologist, or scientist, except as provided in s. NR 712.11. All phases of work necessary to obtain data, develop conclusions, recommendations and prepare submittals shall be conducted or supervised by the professional engineer, hydrogeologist, or scientist.

Note: The department recommends that at a minimum, ASTM standards be followed when conducting Phase I and Phase II environmental site assessments. EPA's requirements contained in 40 CFR Part 312 must be followed in order to be eligible for the liability protections contained in CERCLA.

Note: Following ASTM standards alone will not be sufficient to meet the requirements of various environmental assessments that are required under state law. When conducting a site investigation under ch. NR 716, "hazardous substances" and "environmental pollution" as defined by ch. 292., Stats., must be considered, and the requirements of ch. NR 716.07 must be considered. Lenders conducting an environmental assessment per s. 292.21(1)(c), Stats., must meet additional criteria listed in statute. Parties seeking an exemption under s. 292.15, Stats., must meet criteria other than ASTM standards.

(2) Submittals prepared to satisfy the requirements of ch. NR ~~722, or 724, 726~~ or s. NR 708.11 (4), including free product removal conducted in accordance with s. NR 708.13, for response actions taken to address groundwater contamination shall be jointly prepared by, or under the supervision of, a professional engineer and a hydrogeologist.

(3) Submittals prepared to satisfy the requirements of ch. NR ~~722, or 724, 726~~ or s. NR 708.11 (4) for response actions that address any media other than groundwater shall be prepared by, or under the supervision of, a professional engineer.

Note: This chapter is not intended to authorize the practice of professional engineering in violation of ch. 443, Stats.

(4) Hydrogeologists shall prepare or supervise the preparation of submittals involving the assessment of groundwater conditions at a site or facility, when prepared to satisfy the requirements of ch. NR 716 or 726.

(5) Submittals addressing any media other than groundwater, which are prepared to satisfy the requirements of ch. NR 716 or 720, shall be prepared by or under the supervision of a professional engineer, a hydrogeologist or a scientist.

Plain language explanation/analysis:

The rule changes above are proposed to improve clarity for signatory requirements when submitting documentation as part of the NR 700 regulatory process. No changes to current department practice are expected from these changes. Proposed language reflects policy clarified in guidance finalized March 2018, "Wis. Admin. Code ch. NR 712 Qualifications and Certifications."

Comparable state or federal rules or policies:

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Not applicable.

Economic impact comments:

The rule changes above do not represent a change in policy and thereby will not incur economic impacts.