

NR 700 RULE
UPDATE

WELCOME TO THE NR 700 REVISIONS WEBINAR

September 19, 2013

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NR 700 REVISIONS WEBINAR

- 1:00 – 3:00 pm
- You must call WisLine for audio. 1-888-291-0312 (passcode: 5155 216#)
- Please MUTE your telephone
- Download presentation at <http://dnr.wi.gov/topic/brownfields/training.html>
- Questions via Live Meeting “Q & A” feature or email Michael.Prager@wisconsin.gov



NR 169: DRY CLEANER ENVIRONMENTAL RESPONSE PROGRAM

Terry Evanson,
Dry Cleaner & Vapor
Intrusion Team Leader

SUMMARY OF NR 169 CHANGES

- Changes to Site Hazard Categorization System (NR 710)
- Changes to Eligible Costs
- Eliminate requirement for change orders to accompany Site Investigation reimbursement requests

NEW HAZARD CATEGORIZATION

- Prioritization required by statute for reimbursement priority
 - DNR always uses first-in, first out
- New definitions for high, medium, low priority
 - Incorporate risk to drinking water and groundwater as well as vapor intrusion risk
 - Most dry cleaning sites will be high or medium priority
- Incorporate the new definitions of “vapor action level” and “vapor risk screening level”

Rule cite: NR 169.05 (12m),(16g),(16r),(29g)(29r)

ELIGIBLE COSTS

- Remediation at dry cleaners frequently involves removing a portion of the floor to excavate highly contaminated soils
- New rule allows reimbursement of up to \$15,000 for costs incurred for:
 - Removing/replacing building components that must be removed or destroyed in order to investigate, treat or remove contaminated soil or water

Rule cite: NR 169.13(2)(f)3. and NR 169.13(3)(a)6.

INTERIM SITE INVESTIGATION REIMBURSEMENT REQUESTS

- Three interim SI reimbursement requests can be made prior to completion of the SI
- Minimum interim SI reimbursement requests is \$15,000
- Change order is no longer associated with SI reimbursement requests

Rule cite: NR 169.11(1)(c)9. and NR 169.19(4)(c)



QUESTIONS?

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NR 700: GENERAL REQUIREMENTS

Mark Gordon,
Policy & Technical
Resources Section Chief
(former)

SUMMARY OF NR 700 CHANGES

- Added definitions of vapor action level, vapor risk screening level and attenuation factor.
- Removed the simple site process.
- Requiring semi-annual progress reports.
- Timeframes for submitting reports has been added.

NR 700 – VAPOR DEFINITIONS

- Vapor action level is when the concentration of vapors is at or above:
 1. An excess cancer risk of 1-in-100,000 or
 2. A hazard index of 1 for non-carcinogens.
- Vapor risk screening level is the action level divided by an attenuation factor.
- Attenuation factor means the ratio of indoor air concentrations to subsurface concentrations.

NR 700 – SIMPLE SITE PROCESS

- The simple site process allowed for self-certification of closure, primarily for petroleum contaminated sites.
- The process received only limited use initially and hasn't been used for many years.
- As a result, this option has been eliminated.

NR 700 – SEMI ANNUAL PROGRESS REPORTS

- Applies to all sites that have received an RP letter, but have not been granted case closure.
- Requires a brief summary of the work completed and the anticipated future work.
- Reporting periods will be January to June and July to December.
- First report due in July, 2014.
- Planning to have an on-line, fillable form.

NR 700 – TIMEFRAMES FOR DOCUMENT SUBMITTALS

- The rule requires specific timeframes for submitting documents.
- SI work plans must be submitted within 60 days of receiving an RP letter. Implementation must begin within 60 days of submitting the plan.
- SI Reports must be submitted within 60 days after completing the field work and receiving the lab data.
- A Remedial Action Options Report must be submitted within 60 days after submitting the SI Report.



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NR 710: SITE DISCOVERY, SCREENING AND RANKING

Mark Gordon,
Policy & Technical
Resources Section Chief
(former)

SUMMARY OF NR 710 CHANGES

- The rule was established to provide a process for identifying and ranking sites with environmental contamination.
- The statutory requirement to inventory sites was repealed.
- DNR determined that the process for scoring sites was not needed to prioritize sites.

SUMMARY OF NR 710 CHANGES

- Two sections were moved to NR 700:
 1. NR 710.05 (now NR 700.10) regarding the identification of responsible parties, and
 2. NR 710.08 (now NR 700.08) regarding superfund site assessment.
- The rule language for both of these sections was not changed.



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NR 714: PUBLIC PARTICIPATION AND NOTIFICATION

Jane Lemcke,
Standards & Streamlining
Team Leader

NR 714 PURPOSE

- The purpose of this chapter is to identify the required public participation and notification activities for response actions undertaken pursuant to chs. NR 700 to 754.

RESPONSIBILITIES OF THE DEPARTMENT

■ Database

- The DNR is required to maintain a database of known release sites. It also includes information about sites with residual contamination and/or continuing obligations.

■ State-Funded Remedial Actions

- For DNR funded actions, DNR needs to publish a public notice about the remedial action selected
- DNR is also responsible for conducting or directing public participation and notification activities for both state funded and RP-lead contract sites

DNR RESPONSIBILITIES CONT.

- Public Records - Make available upon request
- Public Meetings – may hold a public meeting
- Requests for Site/Facility Specific Response
 - DNR to maintain a list of those parties that requested to be kept informed of approvals/rejections of response actions at a site
- Superfund – Follow NCP for SF sites, post signs

RESPONSIBLE PARTY RESPONSIBILITIES

- Evaluate need for public participation and notification
 - Threats, public concern, add'l info needed, other
- Provide a description of actions and contacts
 - Description of type/volume/characteristics of contamination, of mitigation, and contact names/#s

RP RESPONSIBILITIES CONT.

- Methods of Public Notification
 - Site-specific, DNR may direct RP to conduct a number of public participation activities
 - Public notice in newspaper, block advertisement, leaflet distribution, letters/personal contact, contacting government officials, contacting media, contacting interested individuals, hold public information meetings, establish a means of receiving input and providing responses, other
- Posting of signs
 - Contaminated soil stockpiles, direct contact/exposure threat locations, entryways of buildings/structures

OTHER NOTIFICATION REQUIREMENTS

- NR 725 and NR 727 also have notification requirements for the RPs, both pre and post closure.



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NR 728: ENFORCEMENT AND COMPLIANCE AUTHORITIES

Mark Gordon,
Policy & Technical
Resources Section Chief
(former)

SUMMARY OF NR 728 CHANGES

- NR 728.10 was added which allows DNR to put sites on the database if the RP fails to take the necessary response action.
- A 30-day notice is required prior to taking action.
- This provision was added due to the time and effort necessary to file a deed affidavit.
- NR 728.11 on deed affidavits was retained.

SUMMARY OF NR 728 CHANGES

- The term “contract” was replaced with “agreement” throughout the rule.
- A section on fees for enforcement actions was added to address the statutory requirement to promulgate rules.
- Clarified that DNR has authority to issue orders to prevent hazardous substance discharges.



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NR 734 & NR 736: CONTRACTING SERVICES & PUBLIC NOTICE, BIDDING AND AWARD OF CONTRACTS

Tim Panzer,
Fiscal & Information
Technology Section Chief

NR 734 AND 736 PURPOSE

- NR 734: to establish procedures that apply to the procurement of professional services of consultants by the department for projects related to hazardous substance discharge and environmental repair response actions.
- NR 736: to establish procedures for the department to implement the award of contracts for environmental construction contracts pursuant to s. 23.41, Stats.

BID LIMITS AND PUBLIC NOTICING

- Rules revised to apply to construction contracts with estimated costs of \$60,000
- Up from \$30,000
- “Advertisement” of bids is now replaced by posting a public notice on a publically accessible website
- The Department may allow an alternate method of submitting and accepting bids, other than submittal in a sealed envelope.

CONSULTANT QUALIFICATION LIST

- In NR 734, for the list of consultants interested in providing professional services:
 - Consultants may provide updated data by January 15th of even numbered years

NR 734.15 REQUEST FOR PROPOSAL

- Consultants now need to also include a proposed schedule for completing each phase of the work, within each proposal



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NR 738: TEMPORARY EMERGENCY WATER SUPPLIES

Tim Panzer,
Fiscal & Information
Technology Section Chief

NR 738 PURPOSE:

- to provide criteria for using state moneys from the environmental fund for temporary emergency water supplies, when water supply systems have been adversely affected by environmental pollution, from a site/facility subject to s. 292.31 or 292.11, Wis. Stats.

DEFINITIONS

- Definitions were added or revised for the following:
 - Contaminated well (format change – from 738.045)
 - Livestock (from s. 95.80, Wis. Stats.)
 - Livestock water supply (s. 281.75, Wis. Stats.)
 - Private water supply (s. 292.13, Wis. Stats.)
 - Well (NR 812, Wis. Adm. Code)

FORMAT CHANGES - RENUMBERING

- Contaminated Wells (from .045 to definition)
- Eligible and ineligible services (.06 to .05)
- Request for temporary emergency water supply (from .05 to .07)
- Determinations of Eligibility (.04 to .09)
- Department approval and payment (.07 to .11)
- Denial of requests or termination of funding (.08 to .13)
- Variances (.09 to .15)



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NR 700 REVISIONS

- Next Webinar: Wednesday, Sept. 25, 2013
- 1:00 – 3:00 pm
- Chapters: 725, 726, 727
- Presenters: Mark Gordon / Jane Lemcke
- Presentations available at <http://dnr.wi.gov/topic/brownfields/training.html>
- Questions after today can be emailed to DNRRRComments@wisconsin.gov