

EXTERNAL ADVISORY GROUP

Remediation and Redevelopment Program



AGENDA

Remediation and Redevelopment External Advisory Group

Thursday, Jan. 25, 2023 | 1:00 – 3:30 p.m.
State Natural Resources Building | Room G-09
101 S. Webster St. | Madison, WI

Please check-in at the security desk before taking the elevator.

In-person attendees, RSVP to Jodie.Thistle@wisconsin.gov by noon on Wednesday, Jan. 24, 2024.

Register for Zoom meeting:

https://us02web.zoom.us/meeting/register/tZ0lduGgqDMtGdGczDINDnZd1f9lQ_mi8065

<i>Roll Call</i>	<i>10 minutes</i>
<i>Logistics and Upcoming Meetings</i>	<i>5 minutes</i>
<i>DNR Updates</i>	<i>10 minutes</i>
<ul style="list-style-type: none">• Rulemaking• Vapor intrusion• DNR guidance• EAG charter updates	
<i>Subgroup Updates</i>	<i>80 minutes</i>
<ul style="list-style-type: none">• Environmental Justice Subgroup – Jodie Thistle• Funding Sustainability Subgroup – Mark Rutkowski• NR 700 Subgroup – Bill Nelson• Vapor Intrusion – Chris Bonniwell	
<i>Support of RR/NR 700 (Bill Nelson)</i>	<i>30 minutes</i>
<i>Action Items</i>	<i>15 minutes</i>
<ul style="list-style-type: none">• VI Subgroup Workplan• EJ Subgroup – Seeking External Chair• FYI on Term Expirations in June (DNR action item)	
<i>Assignments</i>	
<i>Adjourn</i>	

Charter

Remediation and Redevelopment External Advisory Group

January 2024

This charter outlines the purpose, structure, membership, and meeting organization for the Remediation and Redevelopment External Advisory Group (RR EAG).

Background

The Remediation and Redevelopment Program (RR Program) at the Wisconsin Department of Natural Resources (DNR) oversees the investigation and cleanup of environmental contamination and the redevelopment of contaminated properties. The DNR has a business need to work with an external advisory group to receive constructive and practical input from, and provide information to, interested parties on a wide variety of regulatory and policy issues. The RR Program previously worked with the Brownfields Study Group on policy issues related to brownfields redevelopment, while the DNR's NR 700 Technical Focus Group concentrated on technical topics related to the program. The RR EAG was formed to address a broad range of issues encompassing both technical and policy topics related to encouraging the investigation, cleanup and redevelopment of contaminated sites.

Purpose and Scope of Responsibilities

To receive input and feedback on the following topics:

- General state and/or federal investigation and cleanup policies, including rule making, guidance development, and other initiatives
- Recommendations to legislature and governor about legislative changes or new programs to improve investigation, cleanup and redevelopment tools
- Recommendations to the DNR on how the agency implements programs
- Specific state and/or federal investigation and cleanup topics or regulations
- Technical topics related to the investigation and cleanup of contaminated sites
- Funding sources and other financial incentives to support investigation, cleanup and redevelopment of contaminated sites and brownfields
- Collaborative efforts with other DNR programs and outside partnerships

Membership

Membership is comprised of a diverse group representing various stakeholders involved with remediation and redevelopment in Wisconsin.

Chair

The RR EAG chair is the RR Brownfields, Outreach and Policy Section Chief. The chair's role is to:

- Set meeting dates/times
- Send call for agenda topics to RR EAG members
- Facilitate meetings

Members

The RR EAG will be comprised of approximately 14-16 members representing a range of stakeholder viewpoints, including other state agencies, EPA, local governments, tribal governments, consultants, interest groups, academia, and responsible party representatives.

Members will be appointed by the DNR Secretary. The Secretary may consider input from member's interest groups. Members serve at the pleasure of the DNR Secretary. Non-DNR member terms will be 3 years with staggered term expirations. Members can serve consecutive terms. For the purpose of establishing the RR EAG, initial member terms may be up to 4 years and will end June 30 of the term end year. If a member is unable to complete the term, a replacement will be appointed by the chair to fulfill the remainder of the term.

The RR EAG will be supported by ad hoc subgroups as needed and subgroups may include non-members. Non-members are welcome to attend all meetings of the RR EAG. DNR representatives who will attend meetings include but are not limited to:

- Christine Sieger – RR Program Director
- RR Policy and Program Operations Director
- RR Program Outreach Coordinator – Facilitation and logistics support
- Michael Prager – Program Policy support

Member Role

- The success of the RR EAG discussions will be enhanced by regular attendance of the members; members are asked to place a high priority on attending the meetings.
- If members cannot attend a meeting, they are asked to discuss this with the chair in advance, and, if appropriate, submit any written opinions or feedback on the agenda topics.
- Substitution of RR EAG members will be discouraged to maintain the collaboration and dynamics of the group.
- Every member's participation and contribution is valuable. Each RR EAG member will be allowed to present their opinion on topics being discussed and is asked to listen attentively to other group members.
- Members should submit meeting topics to the chair following the call for agenda items.

Operating Guidelines

Rules of Order

The RR EAG will generally follow Robert's Rules of Order.

Timing and Structure of Meetings

The meetings of the RR EAG and the ad hoc subgroups will follow operating guidelines to foster understanding of meeting logistics and operations. The guidelines are also intended to facilitate group participation and enhance discussion of the issues.

- Meetings will be facilitated by the chair.
- The RR EAG is a working group and members may be asked to provide information to the group on various issues. DNR staff will also give presentations and provide documents to the group.
- The recommended frequency of meetings will be quarterly, timed to coincide with major policy decisions and as needed for input on issues. Meetings will primarily be in person, with a virtual option available (pending public health best practices).
- No later than two weeks prior to RR EAG meetings, all RR EAG members and interested parties will be notified of meeting times and locations.
- Meeting agendas and materials will be coordinated by the DNR for each meeting. This information will be sent electronically to the RR EAG members about one week prior to the meetings. Agendas and materials will also be posted to the DNR's public website. Any information or documents being prepared by agenda topic leaders should be sent to DNR staff at least one week prior to the meeting to ensure adequate time for posting to the website and for RR EAG member review.
- Each meeting will be public noticed in accordance with Open Meetings requirements. All meetings of the RR EAG and its subgroups are open to the public.
- EPA Region 5 representatives will be invited to attend RR EAG meetings (and subgroup meetings, as relevant).

- Meeting minutes/notes will be taken by the DNR staff. A draft of notes from each RR EAG meeting will be distributed to the membership for comments and approval soon after each meeting. A final draft of the meeting notes will be distributed to the RR EAG and put on the RR EAG's web page shortly after approval is received from RR EAG members.
- Ad hoc subgroups will be established by the RR EAG for specific topics. In addition, individual RR EAG members may be asked to fulfill certain assignments.
- The RR EAG will review the draft recommendations from the subgroups.
- The format for recommendations will include a background narrative, followed by the proposed recommendation, type of recommendation (administrative, statutory, or regulatory) and any resources needed (staff and/or funding).

Ad Hoc Subgroups

The need for ad hoc subgroups may arise to discuss topics more in-depth or to work on assigned deliverables.

- The formation of ad hoc subgroups will be approved by the RR EAG ahead of the subgroup's first meeting.
- Each subgroup will have a chairperson, who is appointed by the RR EAG chair and serves as an ad hoc member of the RR EAG. The RR EAG chair may establish a term for the subgroup chair.
- Membership in the subgroup may include RR EAG members and /or nonmembers.
- The RR EAG or appointed subgroup chair will establish the charge of subgroups. A charge may include the following:
 - Identifying options or priorities for resolving technical or policy issues
 - Identifying whether an issue should be addressed via statutory, regulatory, or administrative (e.g., fact sheet or training) changes
 - Identifying the resources (e.g., staff or money) needed to implement a change
- Each subgroup meeting will be public noticed. No later than 2 weeks prior to a subgroup meeting, the chairs will notify DNR staff and DNR staff will ensure that all subgroup members and interested parties are notified of meeting times, locations, and agendas.
- Membership in the subgroups will be from a wide variety of interests, to ensure a balanced group and the broadest base for input.
- The chair will provide DNR staff the names and associations of those on the subgroup.
- Each subgroup will take meeting notes and forward a draft of the notes to DNR staff for distribution to the subgroup for approval soon after each meeting. A final draft of the notes will be distributed to the RR EAG and put on the RR EAG's web page.

Annual Action Planning

Annually, the RR EAG will conduct a comprehensive review of technical and policy issues and identify a road map for work items for RR EAG efforts. Identified work items should include expected deliverables, staff resources, the need for subgroups, and timeframes as applicable.

Issue Paper Outline (12/5/2023 DRAFT)

Conceptual Site Models and Site Investigations

NR 700 EAG Subgroup

Molly Schmidt, Michele Norman, Jodie Thistle, Donna Volk, Josh Davenport

TYPE OF RECOMMENDATION

[e.g., statutory, regulatory, administrative]

BACKGROUND

NR 716 language can be ambiguous or confusing; seeking to identify issues and improve clarity and regulatory efficiency.

A. Conceptual Site Model (CSM)

- Not explicitly named in code as a requirement although components of a CSM are necessary to complete a site investigation
- Unclear when development of a CSM should begin and that it is an ongoing/living model that builds with each iteration of investigation as well as when remedial actions are taken
- Unclear how to present a CSM as part of the SI process (format, etc.) and RAOR, RAP, closure

B. Site Investigation Scoping

- SIWP requires scoping information per NR 716.09. The DNR doesn't receive SIWPs for most cases, although they are required.
- SIR requires scoping information per NR 716.15 and references NR 716.07
- Difficult for the DNR to review reports without adequate background information and presentation of general site conditions
- Work plans should be required for each iteration of site investigation.

C. DNR technical review requests

- Very few fee review requests received for SIWP, SIR, RAOR, which can result in compounding issues, less efficiency in cleanup.
- When fee review is requested for SIWP, the responsible party (RP) may need to wait 60 days before beginning field work. But if no technical review is requested, the timeframe is 30 days, resulting in a disincentive for time-sensitive projects to seek fee review.

D. Groundwater

- Often when Monitored Natural Attenuation (MNA) parameters are potentially a remedy or part of a remedy, the justification of MNA is limited to decreasing contaminant concentrations. Under NR 716.13(13), MNA parameters should be collected during site investigation (SI) work and should include analysis and interpretation of geochemical indicators and parameters.
- The correct use of temp wells (wells that do not comply with NR 141 construction requirements) and grab samples as being for field screening purposes is unclear. Results are generally not considered to be representative of groundwater conditions and not to be used for regulatory compliance. Also, a temp well variance request (for wells not complying with NR 141) must be submitted prior to use for DNR review.

These draft issue papers and recommendations were developed by the Remediation and Redevelopment External Advisory Group and members of the public, and do not necessarily represent the opinions or the position of the Wisconsin Department of Natural Resources or other state agencies.

E. Data Interpretation

- Most site investigation reports (SIRs) do not include the interpretation of data required under NR 716.15 (3)(h). Often, the results are presented, but there is no discussion of how the degree and extent has been defined in all environmental media and impacts to receptors.

F. J-flagged Lab Data

- If lab results are estimated or "J-flagged", those results require interpretation, however, there is typically no discussion of how the RP/consultant consider the J-flagged data to be representative of site conditions.

G. Method Detection Limits

- Increased method detection limits due to dilution (e.g., interference) that result in "no detect" of a COC but the method detection limit is well above the RCL.

H. Exceptions noted by the lab during analysis of environmental samples

- The SIR should discuss any samples noted by the lab as not being received in an appropriate condition.
- Typically, if the lab identifies that the environmental samples have been received in a condition that may affect the data results, these situations are not discussed in the SIR. For example, if the samples were not received on ice or there is air in a sample vial, the data results may be affected.

I. Visual Aids

- Variability in Flow Direction. Variations in flow direction must be illustrated on water table and potentiometric surface maps under NR 716.15(4)(b)1, however, typically, only one flow direction map is provided with no discussion of variability in flow direction, which can affect receptors and remedial options.
- Isoconcentration Maps. Maps should include data to support illustration/depiction of extent of contamination displayed as isoconcentration lines. See NR 716.15(4)(c). Maps should include both isoconcentration lines and data.
- Cross Sections. Include data to support illustration/depiction of extent of contamination displayed as isoconcentration lines. See NR 716.15(4)(d). Cross sections should pass through the source area(s) and along potential/known migration pathways to potential receptors.
- Photographs. Photographs are required, but rarely submitted, to document site work. See NR 716.15(4)(f).

J. Iterative Nature of SI & Comprehensive SIR

- Often, multiple SI reports are submitted to the DNR. The DNR recognizes that the SI is an iterative process; however, if multiple SIRs and technical reports with SI data have been submitted, a comprehensive report is needed to integrate and interpret all the data that has been collected to respond to the hazardous substance discharge.
- Frequently, DNR staff are trying to review multiple reports to determine if the degree and extent of contamination has been defined in all environmental media. This is an inefficient and time-consuming process.

PROPOSAL

A. CSM

- The ITRC definition of a CSM is “a three-dimensional visualization of site conditions that allows for evaluation of contaminant sources and affected media, migration pathways and potential receptors”
- Require development of a CSM to be maintained as a communication and decision-making tool throughout the NR 700 process (potentially through rule revisions and guidance).
- Potential CSM steps:
 - Begins when a hazardous substance discharge is reported
 - Evolves as scoping information is gathered
 - The initial CSM should be included in the submittal of an SIWP and updated CSMs included with subsequent submittals throughout process, including closure submittal
 - As site investigation data are collected, the CSM should be updated
 - Should be included in the submittal of an SIR and show the degree and extent of contamination in all affected media
 - CSM directly supports the RAOR/RAP in evaluating remedial options
 - Closure application should include the CSM to demonstrate that the site investigation is complete and how the response/remedial actions address any residual contamination and are protective
- CSM examples as part of a guidance document should be created for simple and complex sites

B. SIWP

- Clarify when additional work plans and fees would be required for additional SI field work. Add authority to require subsequent workplans and a fee per plan when additional investigation steps are proposed.
- Clarify whether additional SIWPs require all previous background data that was submitted as part of previous SIWP.
- The pace of the investigation should be considered when requiring developing a work plans. For investigations where the RP needs to move forward more quickly but multiple field iterations may be anticipated, consider stepped/dynamic work plan approaches that outline how an RP will move forward with additional investigation based on the initial fieldwork (e.g., stepping out monitoring wells based on specific pre-defined criteria). How would this be reviewed/approved/fees collected?
- RP's understand that they are proceeding at their own risk if they proceed with fieldwork without SIWP approval; regardless of approval of SIWP, the DNR may request additional work.

C. DNR technical review requests

- Consider having a consistent timeframe (60 days) for both fee and non-fee SIWP (through rule revisions)
- Consider incentivizing the submittal of a fee, for example, changing review time to 90/180 days without fee and 30/60 days with fee (through rule revision).
- Consider requiring a fee review for SIWP, SIR, RAOR, RAP (through rule revisions)
- Consider a graduated scale for expediting reviews. Larger the fee, the faster the review.

- D. Groundwater
 - Clarify when field monitoring of DO, ORP, pH, temp, alkalinity is required and then submit as part of SI report.
 - Certain MNA parameters should be included in the SIWP based on contaminant identified during discharge notice.
 - Consider adding clarity to administrative code or/and guidance regarding temporary groundwater monitoring wells and grab samples; consider clarifying terminology to be consistent with industry terms
 - Further clarify types of temporary wells used by industry and when pre-approval is required
- E. Data Interpretation
 - Further discuss issue, causes, and potential resolution for lack of interpretation of data required under NR 716.15 (3)(h). Consider whether administrative review for completeness applies.
- F. J-flagged Lab Data
 - Further discuss issues ("J-flagged" interpretation and discussion of how data is representative of site conditions), causes and potential resolution.
 - Consider requiring data validation section in SI Report
- G. Method Detection Limits
 - Further discuss issue (increased method detection limits due to dilution that result in "no detect" of a COC but the method detection limit is well above the RCL), causes and potential resolution.
 - Include discussion in report of elevated detection limits
 - Clarify whether this will be interpreted as above the RCL standard (see NR 720.07(2))
 - Consider requiring data validation section in SI Report
- H. Exceptions noted by the lab during analysis of environmental samples
 - Consider requiring QA/QC report discussion in SIR
 - Consider requiring data validation section in SIR
- I. Visual Aids
 - Further discuss issues (missing data relating to variability in flow direction, isoconcentration maps, cross sections, and photographs), causes and potential resolution(s).
 - Consider whether administrative review for completeness applies
 - Clarify in code to specify exactly what DNR wants for visual aids
 - Clarify when photographs are appropriate and what types of photos DNR is looking for
- J. Iterative Nature of SI & Comprehensive SIR
 - Further discuss issues (submission of multiple SIRs and technical reports with SI data with no comprehensive report and resulting inefficiencies for DNR staff), causes, and potential resolution.
 - A comprehensive SI should consist of all relevant data and visual aids, taking into account the time gap between sampling events, if applicable.

Remediation and Redevelopment External Advisory Group



Paper/Agenda #

RESOURCES NEEDED

[DNR staff participation estimated hours, external participation estimated hours]

ENVIRONMENTAL JUSTICE EVALUATION

[Explain how this proposal furthers Wisconsin DNR goals regarding environmental justice]

COMMENTS

[Notable comments from issue paper draft writing process from subgroup members, including alternative approaches considered]

DRAFT

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SUBGROUP: Vapor Intrusion

Remediation and Redevelopment External Advisory Group



Chairperson	DNR Representatives	Participants*
Chris Bonniwell	Jennifer Borski Judy Fassbender	Mark Rutkowski Cory Katzban Steve Meer Danika Hill-Paulus Ryan Honeck Kraig Sadowinskow Ashley Wagner Timm Speerschneider Susan Petrofske Michelle Cook Adam Roder Alex Amundson Nathan Kloczko Heather Herr Jeremiah Yee Gregory Small Heidi Woelfel Ray Tierney Donald Gallo Andrea Lorenz Chris Valcheff Lanette Altenbach Chad Rogness Donna Volk Curtis Hedman

*Participants who attended the first meetings of the subgroup. All meetings are open to the public. All meetings are open to the public.

PURPOSE/OBJECTIVE

The Wisconsin Administrative Code chs. 700-799 (“NR 700”) rules are the road map for the restoration of contaminated sites in Wisconsin. Relevant program policies and guidance that promote consistent application of NR 700 rules and protection of public health from environmental contamination are essential to the RR Program’s success and sustainability. A current priority area is proactive training and outreach for awareness of potential chemical vapor intrusion (VI) from reported and unreported contamination. To serve that purpose, the objectives of the VI subgroup are to:

- (1) advise on legislative action related to vapor intrusion affecting the RR Program,
- (2) enhance outreach and training with the regulated community & related professions, including municipalities, responsible parties, affected property owners, environmental consultants, mitigators, realtors, bankers, insurance companies
- (3) assure best management practices are utilized for mitigation of vapor intrusion, and
- (4) enhance resources for more efficient communications related to vapor intrusion.

Meeting these purposes/objectives includes providing recommendations for implementation that consider and incorporate environmental justice.

DELIVERABLES AND MILESTONES

- Training and outreach for municipalities to develop better relationships with communities and provide tools for consideration of vapor intrusion at many stages (e.g., occupancy to consider all environmental hazards, redevelopment, permitting, planning).

SUBGROUP: Vapor Intrusion

Remediation and Redevelopment External Advisory Group



- Development of timeline and process for mitigation, commissioning and documentation with recommendations for occupancy.
- Outreach or fact sheets for occupants about general chemical use related to VI.
- Training and outreach for off-site property owners, including people with no or limited English language proficiency.
- Uniform reporting format for sharing building-specific results with diagrams.
- Framework for certification for mitigation regulation.
- Education and incentives for telemetry.
- Framework to increase compliance with long-term stewardship of vapor mitigation systems including on-line reporting for confirmation of system effectiveness.
- Database and mapping tools that communicate with municipality databases, in service of increasing the consideration of vapor intrusion at all stages of municipal work.
- Training tools and resources on environmental contamination concerns, health risk from vapors, need for mitigation systems, continuing obligations and RR database (BOTW/RRSM) for real estate agents, bankers and insurance agencies.
- Enhance partnership with Department of Safety and Professional Services (DSPS) regarding regulated entities related to VI (e.g., building inspectors, plumbers, electricians).
- Enhance partnerships with Department of Health Services (DHS) and Department of Children and Families (DCF) regarding radon in relation to potential chemical vapor intrusion.

EXPECTED OUTCOMES

- Advice provided on VI legislative actions affecting the RR Program.
- Provide feedback on needed and proposed policy revisions.
- Enhanced partnerships with state agencies and other stakeholders.
- Regulate mitigation by creating certification framework or program.
- Enhanced database and reporting for the DNR and municipalities.
- Incorporate environmental justice into policy revisions and implementation.
- Increased training about environmental contamination, continuing obligations and RR databases for a variety of stakeholders (e.g., municipalities, mitigators, realtors, bankers, insurance agencies).