

NR 718 & NR 500 DIRTY DIRT

**Don't Pick It Up
Without a Plan to Put It Down**

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Key Points

- Once excavated, contaminated soil and other solid waste must be managed in accordance with applicable laws.
- Minimally contaminated material may not warrant disposal at a landfill.
- Exemptions available from state solid waste law.
- Guidance documents provide details.

Presentation Overview

- Determine what you are managing.
- 2 exemption options for managing low-level materials.
- Focus on New NR 718 Guidance Documents
 - Tracking
 - Fees
 - Support Staff
 - What's Next?



General Overview

Wisconsin laws that apply to management of materials:

- NR 500 – Solid Waste
- NR 718 – Response Actions
- NR 600 – Hazardous Waste



Waste Management Options



Overview of: NR 718.12 and 718.15

Materials Management



Waste Management Options

- Excavated material may be eligible for the “clean fill” exemption in s. NR 500.08(2)(a).
- If “clean fill” then no DNR approval is required.



Determining Management Options

The person generating the material and person receiving it may have liability if contamination results.

Waste Management Options

- If you pick up contaminated material, it requires appropriate management.
- The waste determination is used by generator to identify options for management.
- Focus on Phase I type evaluation criteria – past land use.



Waste Management Options

- Sampling is not required but should be evaluated as option.
- If contaminated, generator must adequately characterize the material.

If sampling is warranted:

- Analyze for all contaminants likely to be present at the site
- Collect samples from areas most likely impacted

Waste Management Options

- Option to use NR 718.12 sampling:
 - 1 sample/100 yds (for the first 600 yds)
 - 1 sample for each additional 300 yards thereafter
 - Minimum 2 samples



Waste Management Options

- Samples must be representative of what is being managed.
- Alternate sampling frequency may be approved
- Pre-approval should be obtained for alternate plans.

DNR Program Coordination

Two exemptions to manage waste in location other than licensed landfill:

- 1) NR 718
- 2) Wis. Stats. 289.43(8)



DNR Program Coordination

- NR 700 response actions:
 - Managing contaminated soil on site or at another site or facility; and/or
 - Managing other solid waste on response action site as part of a response action.

- Exemptions available via NR 718



DNR Program Coordination

Activities that may be eligible for low hazard exemption:

- All other management activities where NR 718 does not apply.
- See WA publication 1645.



Low-Hazard Waste Exemption

- Very broad authority under Section 289 and NR 500
- Can be used to exempt many types of material for disposal at a non-landfill location



Overview of:
NR 718.12 and 718.15

Materials
Management



NR 718 Exemption

Wisconsin DNR – NR 700 Process



Remediation and Redevelopment Program March 2017

Management of Contaminated Soil and Other Solid Wastes
Wis. Admin. Code §§ NR 718.12 and NR 718.15

Purpose
 This guidance is intended for use by responsible parties when excavating contaminated soil and/or other waste materials that may not warrant disposal at an operating, licensed landfill. This guidance describes several exemptions that may be available in such situations.

Background
 Contaminated soil and other solid wastes that are generated as part of a response action under the state's clean-up rules may be eligible for an exemption from state solid waste laws in Wis. Stats. § 292 and Wis. Admin. Code §§ NR 500 to 538. The Wis. Admin. Code § NR 700 rule series governs the response to and cleanup of hazardous substance discharges and environmental pollution. These exemptions to solid waste management are granted under Wis. Admin. Code §§ NR 500.08(6), NR 718.12 and NR 718.15. See the "Quick Guide" in Appendix 1 for an overview.

Exemption Options – NR 718

Applies to:

- Responsible parties.
- Materials generated as part of NR 700 response action.
- Management of contaminated soil at the same "site" or other "site" or "facility."
- Management of "other solid waste" (e.g., fill material) on source property only.
- Not disposing of in operating, licensed landfill.



Response Action

A "response action" is defined in s. NR 700.03(50) as:

- "any action taken to respond to a hazardous substance discharge of environmental pollution, including emergency and non-emergency immediate actions, investigations, interim actions and remedial actions."

NR 708 Immediate Actions

May use NR 718.12(1) exemption:

- Self-implementing.
- Allows movement of soil on source property and soil on another site or facility.
- Limited to 100 cy of total soil.
- Levels of contaminants cannot require engineering controls (>NR 720).

Interim or Remedial Actions

May use NR 718.12 & 718.15 exemption:

- Requires RR program pre-approval.
- Submits information included within the "Recommended Exemption Request Format."
- May require engineering controls or other continuing obligations (> NR 720).

Exemption Options – NR 718



Wisconsin DNR – NR 700 Process

Remediation and Redevelopment Program March 2017

NR 718 Quick Guide: What Contaminated Soil or other Solid Waste Management Options are Available at Response Action Sites or Facilities?

This table is a general guide that describes what management/containment options are available to responsible parties (RPs) and possibly others when managing contaminated soil or other solid waste (e.g., contaminated sediments, fill, sludge, sand) excavated as a result of an immediate, interim or remedial response action taken under the Wis. Admin. Code NR 700 rule series. This is an alternative approach to managing the material as a solid waste at an operating solid waste facility licensed to accept that waste.

| Questions | NR 718.12(5) Contaminated Soil Exemptions | NR 718.12(1) & (2) Contaminated Soil Exemptions | NR 718.15 – on-site replacement of solid waste other than soil |
|---|---|--|--|
| 1. What types of soil, fill, response actions are eligible for the exemptions? | <ul style="list-style-type: none"> • Immediate Actions – NR 708.11 | <ul style="list-style-type: none"> • Interim Actions – NR 708.11 • Remedial Actions – NR 720 and 724 | <ul style="list-style-type: none"> • Interim Actions – NR 708.11 • Remedial Actions – NR 720 and 724 |
| 2. Who may utilize the NR 718 exemptions? | <ul style="list-style-type: none"> • Responsible parties • Construction or utility projects | <ul style="list-style-type: none"> • Responsible parties | <ul style="list-style-type: none"> • Responsible parties |
| 3. Is Department pre-approval required to receive the NR 718 exemption, and under what circumstances? | <ul style="list-style-type: none"> • No, but all actions at NR 718.12(1) must be used | <ul style="list-style-type: none"> • Yes, pre-approval is required • RP is required to provide DNR advance notice of 7 or 30 days, depending on situation • RP must wait for approval | <ul style="list-style-type: none"> • Yes, pre-approval is required • RP is required to provide DNR advance notice of 7 or 30 days, depending on situation • RP must wait for approval |

“Sites” and “Facilities”

For NR 700 response actions, where can I place the material per NR 718?

- Contaminated soil:
 - On same site where generated; or
 - Another “site” or “facility” approved by RR program.
- Other solid waste:
 - On same “site” or “facility” where generated.

“Site” or “Facility”

These terms have specific definitions...

Site means:

- Any “waste” site per 292.01(21)
- Any “area where a hazardous substance has been discharged” per NR 700.03(56)(b)

Facility means:

- Properties that meet definition per 292.

Takeaway: RR program is limited by law as to where it can approve this material to be placed.

Forms and Other Tools

1. NR 718 Recommended Format for an Exemption Request
2. Locational Criteria Exemption Request – Immediate Actions
3. Lab Data Reporting Form
4. Maintenance Plan Template

Exemption Request Format

Format is Optional – but recommended:

- Helps to ensure a complete submittal.
- Allows for streamlined review.
- Satisfies the requirement to notify receiving site property owners of continuing obligations.



Exemption Request Format

Includes the following Sections:

1. General Information and Fees
2. Property and Contact Information
3. Waste Characterization
4. Project Description/Materials Mgmt Plan
5. Receiving Site or Facility Information
6. Locational Criteria
7. Add. Info for Non-Metallic Mine Sites
8. Continuing Obligations at Receiving Site or Facility
9. Figures – Attachments
10. Additional Attachments
11. Certification - Signatures

1. General Information and Fees

Identify the purpose of the exemption:

- Manage contaminated soil on the same response action site from which it was generated (§ NR 718.12).
- Manage contaminated soil at a site or facility that is different from the response action site from which it was generated (§ NR 718.12).
- Manage other solid waste at the same site from which it was generated (§ NR 718.15).

2. Property and Contact Information

| Requester Information | | | | |
|-----------------------------|-------|-----------------------------|-------|----------|
| Last Name | First | Organization, Business Name | | |
| Mailing Address | | City | State | ZIP Code |
| Phone # (include area code) | | E-mail | | |

| Contact Information For Questions About This Request | | | | |
|--|-------|-----------------------------|-------|----------|
| Last Name | First | Organization, Business Name | | |
| Mailing Address | | City | State | ZIP Code |
| Phone # (include area code) | | E-mail | | |

2. Property and Contact Information

| Information About The Site or Facility Where Soil Will Be Deposited, if Different Than The Site or Facility From Which It Was Generated | | | |
|---|------------------------|--|--|
| <input type="checkbox"/> Select if Same as Generating Property (and skip remainder of section) | | | |
| SWPIS No. | SWPIS Facility ID/Name | | |
| Responsible Party SWPIS Address | SWPIS No. | | |

| Recording Property Owner Information | | | | |
|--|------|--------------|----------|--|
| Provide the following information for the owner of the receiving site or facility. If there is more than one property owner include the information requested below for each as a separate document and attach to this form. | | | | |
| Responsible Party (RP) Name(s) | | Company Name | | |
| Mailing Address | City | State | ZIP Code | |

3. Waste Characterization

- What is it (soil or other solid waste)?
- How much is there?
- What are the contaminants?
- How was it characterized?
 - Present the sampling data, justify that it is sufficient
- Depth of excavated material?

4. Project Description/ Materials Mgmt. Plan

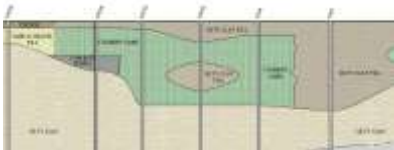
Where is it coming from, and where is it going to?

- Schedule
- How will activities minimize environmental impacts



5. Receiving Site or Facility Information

- Receiving site use
- Geology/hydrogeology
- Environmentally sensitive areas
- Other regulatory restrictions (storm water)



5. Receiving Site or Facility Information

Additional documentation for off site relocation:

- Waste characteristics and quantities.
- The geology and hydrogeology of the area.
- The unavailability of other environmentally suitable alternatives.
- Compliance with other state and federal regulations.
- No threat to public health, safety, or welfare or the environment.
- Current land use and zoning.

6. Locational Criteria

| Location Standards |
|--|
| Check any criteria that are not met for proposed material placement: |
| Within floodplains. |
| Within 100 feet of any wetland or critical habitat area. |
| Within 500 feet of any navigable river, stream, lake, pond, or flowage. |
| Within 100 feet of any on-site water supply well or 300 feet of any off-site water supply well. |
| Within 3 feet of the high groundwater level. |
| At a depth greater than the depth of the original excavation from which the contaminated soil was removed. |

- An exemption to the criteria may be requested.
- Applies to Immediate Actions under NR 708.

7. Non-Metallic Mine Receiving Sites

- Depth of natural groundwater level
- Copy of the reclamation plan that allows low-level contaminated material
- Capping requirements/restrictions



8. Continuing Obligations at Receiving Site

- Residual Soil Contamination.
- Maintenance of a Cover.
- Industrial Soil Standards.
- Future Actions to Address Vapor.
- Site-Specific Condition.
- Responsibility of owner of site or facility where it is being disposed of.

9. Figures

- Cut-Fill Maps
- Cross Sections
- Groundwater
- Contour Maps
- Sample Location Maps



9. Figures



10. Additional Attachments

- Maintenance Plan
- Deed for the Receiving Property
- Lab Data
- Analytical Table

| | | CALCULATED MATERIAL - THIS TABLE MUST BE RECALCULATED | | | | | | | |
|-----------------|-------------------|---|------|------|------|------|------|------|------|
| Run Length (ft) | Run Interval (ft) | Production (lb/ft) | 100 | 200 | 300 | 400 | 500 | 600 | 700 |
| 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 |
| 300 | 300 | 300 | 300 | 300 | 300 | 300 | 300 | 300 | 300 |
| 400 | 400 | 400 | 400 | 400 | 400 | 400 | 400 | 400 | 400 |
| 500 | 500 | 500 | 500 | 500 | 500 | 500 | 500 | 500 | 500 |
| 600 | 600 | 600 | 600 | 600 | 600 | 600 | 600 | 600 | 600 |
| 700 | 700 | 700 | 700 | 700 | 700 | 700 | 700 | 700 | 700 |
| 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 |
| 900 | 900 | 900 | 900 | 900 | 900 | 900 | 900 | 900 | 900 |
| 1000 | 1000 | 1000 | 1000 | 1000 | 1000 | 1000 | 1000 | 1000 | 1000 |

11. Certification Statements

| Professional Engineer | | | |
|---|------------|-------------------------------|----------|
| Last Name | First Name | | |
| Mailing Address | City | State | ZIP Code |
| Phone # (include area code) | Email | | |
| It is my professional opinion that the proposed soil management activity will not cause environmental pollution nor cause any other significant risk to public health, safety or welfare. | | | |
| Signature | Date | Wisconsin Registration Number | |

Property Owner Acknowledgement

Follow the **conditions and limitations** specified in the exemption and agreed to by applicant(s):

- Certify material managed at a "site" or "facility."
- **Manage material in future as solid waste with DNR approval.**
- Understand exemption will be **tracked** in the BRRTS.
- **Inspect and maintain** engineering controls over the contaminated material per any continuing obligations.
- **Subject to audits** by the DNR.
- Understand that Wis. Stats. Chapter 709, **Disclosures by Owners of Real Estate**, may apply.
- Responsibility if hazardous substance discharge occurs.

Property Owner Acknowledgement

Signatures

| OWNER(S) OF PROPERTY WHERE MATERIAL IS PLACED: | | |
|--|-----------|------|
| Print Name | Signature | Date |
| Print Name | Signature | Date |
| Print Name | Signature | Date |
| Print Name | Signature | Date |

I understand that by signing this application I certify that I will follow the conditions and limitations required by law and specified in the exemption issued to me as owner of the site or facility that will receive the

Maintenance Plan Template



- Under NR 718, if a cap is required a Maintenance Plan is also required.
- Maintenance Plan Template included as Attachment D, parts D.1. – D. 5. of Form 4400-202 – Closure Form
- Site can be audited in the future to ensure maintenance is conducted. 😎

Tracking in BRRTS



- Continuing obligations will be imposed on receiving sites or facilities where placement requires long-term stewardship.
- Includes listing on the DNR database.



Tracking in BRRTS



- Contaminated material management sites:
 - receiving site or facility at which a property owner has agreed to accept contaminated soil from another "site" under an NR 718 approval process.
- Linked on BRRTS to show relationship to site or facility where material originated.
