

Clearinghouse Rule 08-111

Report to
Legislative Council Rules Clearinghouse
NR 528, Wis. Adm. Code
Natural Resources Board Order No. WA-22-08

Wisconsin Statutory Authority

ss. 227.11(2)(a), 289.05, 289.06, 289.07 and 299.11, Stats., interpreting s. 289.43, 289.91 and 299.11, Stats

Federal Authority

N/A

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

There is an increasing need to properly manage sediment derived from cleaning sediment control structures. Increased stormwater control requirements were put in place as a result of USEPA's revisions to the Clean Water Act (CWA). The department, in accord with its responsibilities as a delegated program, then promulgated revisions to ch. NR 216 Wis. Adm. Code, effective August 1, 2004. These requirements resulted in an increasing number of storm water management structures for new development. In addition to the increase in new storm water management structures, there are numerous structures installed ten or more years ago that will soon require sediment removal in order to maintain storage and treatment capacity. All this results in an ever increasing volume of sediment requiring responsible management.

Currently, the department performs case-by-case evaluations in response to requests for special exemptions pursuant to s. NR 500.08(4) Wis. Adm. Code for sediment management projects. The proposed rule provides an alternative approach employing a certification form to ensure that those responsible for managing the accumulated sediment meet risk-based requirements to protect health and the environment. The proposed rule would positively impact those required by the state's stormwater permit program to install and maintain sediment control structures. Those affected include municipalities and county government, commercial and residential developers and owners, consultants, environmental groups and citizens.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

An Accumulated Sediment End Use Certification Form is not part of the rule but will be finalized by the department as an integral part of implementing the rule. The form is designed to lead the sediment manager through various steps, based on certain criteria, determine an appropriate end use, document the process and certify that they are qualified to make the evaluation, choose the end use and implement it in a way that protects public health and the environment.

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