

# Summary of Site Reclamation Rules Committee Meeting #2

## March 13, 2014

The Site Reclamation (Site Rec) Rules Committee met on March 6, 2014, and March 13, 2014. These meetings primarily focused on the relevancy and significance of each of the eleven rules. In many cases, it was determined that a rule was no longer relevant and the recommendation was to eliminate it completely. In other cases, the issue was relevant, but could be better represented in legislation, policy, or procedure. In those cases, the committee looked at the Part 196 (CMI) legislation to determine if the issue was already addressed. In many circumstances it was, in other circumstances it was recommended that the wording be slightly modified, or that new wording be added to Part 196 and the rules could thereby be eliminated.

### **Summary of Recommendations:**

1. Total of eleven Rules
2. Determined five of eleven could be eliminated in total as they were no longer relevant.
3. Remaining six rules had some concepts that should be retained. Most can be incorporated into Part 196. Proposed additions/revisions to Part 196 include:
  - Provide definitions of environmental benefit, economic benefit, and project.
  - Modify 19608a so that it applies to both grants and loans. Modify loan-specific text accordingly. (This will address open application period for grants, how payments are made for grants vs. loans, and the application process for grants.)
  - Add requirement for a resolution in support of the project from the LUG.
  - Modify 19612(2) to *...department may revoke "or suspend" a grant or loan...* that will allow for withholding payment if not in compliance with contract until recipient is in compliance.
4. The award amount per year is different in site rec rules than it is in CMI. Program Implementation Committee should evaluate.
5. Relieving PRPs of obligations is to be evaluated by the Liability Committee
6. Prohibition of Asbestos Abatement will be eliminated. Do we want to retain this? This should be evaluated by the Demo Committee.

### **Outstanding Items to Discuss:**

1. Requirements of resolution in support of the project from the LUG to be detailed further.
2. The concept of discouraging development of open space and undeveloped lands.

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Below is a summary of the evaluation of each rule and any items identified as needing to be addressed:

**Rule 1** – The majority of this rule is no longer relevant and can be eliminated. It was determined that only three of the twenty-six definitions should be retained and incorporated into Part 196. A fourth definition was also added from an item identified in Rule 4. These definitions are as follows:

*“Measureable economic benefit” means the permanent jobs that are created or retained, the capital invested, and/or the increased tax base to the county, city, village, or township where the project is located.*

*“Measureable environmental benefit” means the requirements of Part 201 and/or 213 are advanced at a project where environmental conditions inhibit its redevelopment or reuse.*

*“Project” means the entire project to be undertaken, including the actual site remediation and its resulting economic development.*

**Rule 2** – The majority of this rule is no longer relevant and can be eliminated. The relevant components are as follows:

1. 299.5052(3) which provides for an open application period. This is identified under 19608a(2) for loans. It is recommended to revise section 19608a to apply to both grants and loans.
2. 299.50582(8) details the requirements for an application. These were compared to the requirements identified in 19608a(4). It was determined that the current 196 requirements are, for the most part, sufficient with the following exceptions:
  - A few modifications are needed so that they will apply for both grants and loans.
  - The requirements for a resolution from the LUG in support of the project needs to be incorporated in 19608a(4). Further discussion on content of this resolution remains to be addressed.
  - The Program Implementation Committee should look at the current application process.

**Rule 3** - The majority of this rule is no longer relevant and can be eliminated. Many of the relevant components are already incorporated in Part 196. Issues identified for further discussion:

1. Award amount and number of projects per year (R299.5053(g)) – referred to the Program Implementation Committee. Discussed adding wording such as “may be limited to one project per year depending on funding availability.”

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2. Relieving PRPs of obligations with grant funds (R299.5053(n)) - Referred to the Liability Committee
3. Prohibition of Asbestos Abatement currently lives here (R299.5053(h)(iv) and (j)(iii)). If rules are eliminated, it needs to be determined if we want to continue this prohibition and if so, where it should be incorporated. If we retain prohibition it could live either in 19608a(6)(c) under “eligible activities” or in 19608 following items (4), (5), and (6) that identify other prohibitions on the use of funds.

**Rule 4** – Focuses on determination of economic benefit. The rule can go away as this approach is no longer relevant, but a method needs to be determined to assess this.

1. A definition of economic benefit is proposed to be added to the definition section (see above).
2. Resolution from LUG needs to be retained, which is also in Rule 2(8)(n) and addressed under Rule 2 above.
3. Retain concept of discouraging the development of open space or undeveloped land. **This concept needs further evaluation as to how to best address.**

**Rule 5** – There is no need for this rule. If public health issues are involved, the appropriate agencies will be contacted.

**Rule 6** - This rule is no longer relevant and can be eliminated.

**Rule 7** - The majority of this rule is no longer relevant and can be eliminated. Many of the relevant components are already incorporated in Part 196 for loans. Adding grants to what is already in 19608a would address much of the relevant parts of this rule. Issues identified for further discussion:

1. Add requirement for both grants and loans of a resolution showing community support for the project (R299.5057(h)). See above under rules 2 and 4.
2. Add priority for preservation of open space and undeveloped lands to Part 196? See above under Rule 4.

**Rule 8** - This rule is no longer relevant and can be eliminated.

**Rule 9** - This rule is no longer relevant and can be eliminated.

**Rule 10** - This rule is no longer relevant and can be eliminated.

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**Rule 11** - The majority of this rule is no longer relevant and can be eliminated. Many of the relevant components are already incorporated in Part 196 for loans. Other portions are considered more of a procedure than legislation or rule-worthy. Specifically:

1. R299.5061 (1) and (2) are procedures the department can provide as part of the application package. With the following exception:
  - R299.5061 (2)(a). *For grants, funds will be dispersed on a reimbursement basis upon receipt of appropriate documentation. For loans, funds will be dispersed in draws based on an approved work plan and supporting documentation will be submitted after expenses are incurred. Documentation requirements will be specified by the department on a form prescribed for requesting reimbursement.* This language should be added to 19608a(6).-
  - R299.5061(5) – Modify 19612(2) to ...*department may revoke “or suspend” a grant or loan...* this addresses the ability to withhold payment if not complying with the contract, permits, etc. It will allow for withholding payment if not in compliance with the contract until the recipient comes into compliance rather than just revoking.

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### Items to delegate to other committees:

#### To Program Implementation Committee:

1. One million dollars per grant/year/community and \$1M perloan/year/community in CMI. Site Rec Rules had a cap of \$2M per project/year and one project per community. Is the CMI standard what we want to keep? Key issues to discuss include: Can the “project” only receive the specified max or is it the max funding amount during a year (so additional funding could be accessed in the next year). Can more than one community apply for funding on a single project? City, County, etc... Does the max include all funding (grant + loan) or do we cap a max grant and a max loan (as is done in CMI)?

Suggested wording: *Max award of \$xM per project (or per year). LUGS may be limited to only one project per fiscal year, depending on availability of funding.*

2. Evaluate the current application process to determine if it works effectively.

#### To Legislative Committee:

1. Need to modify 19608a so that it applies to **both** grants and loans. Much of this is currently detailed in the Rules for grants. Only a few loan-specific items appear in this section and could be addressed as follows:

*Section 19608a(1):* Tweak so it is not loan-specific, including changing facility and development requirements to reflect those associated with grants.

*Section 19608a(4)(k):* For loans, a resolution from the governing body of the applicant committing to repayment of .....

2. Add the following for grants and loans:

*Section 19608a(4)(m):* A resolution from the governing body of the applicant including all of the following: a provision that if funding is awarded the project will be undertaken, a provision that the proposed development is consistent with the local development or redevelopment plans, zoning ordinances, or master plan; and the designation of the authorized project representative for the applicant.

3. Add following definitions to Section 19601:

- “Measureable economic benefit” means the permanent jobs that are created or retained, the capital invested, and/or the increased tax base to the county, city, village, or township where the project is located.

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- *“Measureable environmental benefit” means the requirements of Part 201 and/or Part 213 are advanced at a project where environmental conditions inhibit its redevelopment or reuse.*
  - *“Project” means the entire project to be undertaken, including the actual site remediation and its resulting economic development.*
4. This language, taken from R299.5061 (2)(a), should be added to 19608a(6). *For grants, funds will be dispersed on a reimbursement basis upon receipt of appropriate documentation. For loans, funds will be dispersed in draws based on an approved work plan and supporting documentation will be submitted after expenses are incurred. Documentation requirements will be specified by the department on a form prescribed for requesting reimbursement.*
  5. Modify 19612(2) to *...department may revoke “or suspend” a grant or loan...* this addresses the ability to withhold payment if not complying with the contract, permits, etc. It will allow for withholding payment if not in compliance with the contract until recipient comes into compliance rather than just revoking.

#### **To Liability Committee:**

1. From Rule 299.5053 (n): Funds do not relieve potentially responsible parties from their obligation or responsibility for response activities and do not permit potentially responsible parties to profit from the investment of public funds.
  - a. Identify intent and clarify this issue to eliminate misinterpretation.
  - b. Clearly define “profit” and “relieve PRP from obligation” or whatever terms are used.