



Remediation and Redevelopment Program

Please note: The final guidance document,
*Post-Closure Modifications: Changes to Property Conditions
After a State-Approved Cleanup,*
is now available online at:

<http://dnr.wi.gov/files/PDF/pubs/rr/RR987.pdf>

Questions will be taken during breaks in the presentation or
can be submitted to DNRRRComments@wisconsin.gov



Remediation and Redevelopment Program

Wednesday, May 4, 2016
12:00 p.m. – 1:00 p.m.

Dial: 1-855-947-8255
Passcode: 6612 745#

**Questions will be taken during breaks in the presentation or
can be submitted to DNRRRComments@wisconsin.gov**

Post-Closure Modifications Covers and Property Boundary Changes

Jane Lemcke

Standards & Streamlining Team Leader

608-267-0554

Jane.Lemcke@wisconsin.gov



Overview

- Post-Closure Modifications (PCMs)
- Post-Closure Modification Process
- Changes to Covers
- Satisfaction of Continuing Obligations
- Changes to Property Boundaries



Post-Closure Modifications

- Post-closure modifications (PCMs):
 - changes at a closed site or property
 - might affect or require a change to the continuing obligations applied

Must maintain protection of human health, safety, welfare or the environment.



Common PCMs

- changes to covers or barriers,
- removal of structural impediments
- additional cleanup actions taken
- satisfaction of continuing obligations (e.g., standards met)
- land use changes
 - Industrial to commercial or residential
 - covers
 - industrial soil standards
 - One commercial to another (vapor condition)
- changes to property boundaries
 - splitting or combining properties or parcels
 - splitting off of (clean) parcels from the site to which continuing obligations were applied



General PCM Process

- Applicant submits request with fees
- DNR reviews, provides written approval to proceed
- Applicant proceeds with changes, submits documentation of completed changes
- DNR reviews, provides final approval (addendum to closure letter), updates BOTW



To begin...

- Property owner decides to make changes that may affect the continuing obligations (COs) applied
 - See closure letter, deed restriction or remedial action approval
 - Identify to which property each CO applies
 - Identify if notice and/or written approval is required for the CO
 - Check “Prohibited Activities”



PCM Process

- Notification of DNR (form 4400-237)
 - Describe proposed actions
 - Define which COs affected
 - Describe how change will be protective
 - Attach map which shows extent and type of COs affected
 - Schedule of proposed actions
 - Etc.



PCM Process

- Applicant submits form with applicable fees:
 - \$1050 review fee
 - \$300/\$350 database fees
 - See 'Cover Table' for fee exception
 - Submit to regional Program Associate



PCM Process

- **DNR Review (60 day)**
 - Will changes be protective
 - Which COs are affected or satisfied
 - Will other COs be needed
 - Will other response actions be needed
- **Approval to Proceed**
 - Summarize changes approved
 - Define other approvals which may be needed
 - Determine if other COs may be needed
 - Identify minimum documentation needs



PCM Process

- Applicant submits documentation of changes made
 - Description
 - Maps
 - Photographs
 - Updated maintenance plan/s
- DNR Reviews (60 days)



PCM Process

- DNR prepares closure letter addendum:
 - Summarizes actions taken
 - Defines which COs are satisfied
 - Identifies any new COs needed
 - Defines any changes made to an existing CO (changes to location, type or extent of cover, etc.)



PCM Process

- DNR updates tracking system
- Uploads documentation to tracking system – BRRTS on the Web
- Revise GIS Registry as needed



Cover Table

- Draft guidance went out for public comment in Dec/Jan.
- Finalized on April 28
- Four categories with examples

- For questions on other types of PCMs, contact PM or Team Supervisor

Post-Closure Modifications (PCM) (Non-Reopener): Covers and Changes in Property Boundaries

Category	Examples	Fee	BRRTS Action Code (AC) (for DNR use), Process and Documentation	
<p>1. Cover continuing obligation remains in effect. No decrease in extent or protectiveness of cover.</p> <p>This does <u>not</u> include modifications that require site regrading</p>	<p>a) replace cover with same material, over the same extent, and no soil removal/disturbance</p> <p>b) replace cover with another, equally or more protective cover (e.g., asphalt to concrete), over same extent, and no soil removal/disturbance</p> <p>c) repair/replacement of cover with same material or equally protective material, over the same extent, and soil disturbance but replacement of soil in same excavation or soil goes to a landfill (utility work)</p>	No fee	AC 191	<i>Post-Closure Modification Notification Received without Fee</i> Requestor notifies DNR about a change, submits plan for review - no fee
			AC 193	<i>Post-Closure Modification Initial Approval</i> DNR Project Manager (PM) provides written approval of request via email or letter response (email from DNR staff OK for this category only)
			AC 194	<i>Post-Closure Modification Final Documentation Received</i> Requestor submits documentation of change; photographs of updated cover, updated maintenance plan as appropriate
			AC 101	<i>Continuing Obligation Modification Approved</i> DNR PM provides written approval (email or letter)
			DNR updates BRRTS on the Web (BOTW) with final written approval of completed action, updated photos and/or maintenance plan. PM puts paper copy in case file.	
			AC 100	QAQC of PDF
			AC 105	<i>Continuing Obligation Request Not Approved</i> Date of a denial of post-closure modification request
<p>2. Changes to Footprint of Cover No change in type of land use – <i>but the extent of cover changes from that approved at closure</i></p>	<p>a) A site is redeveloped, (commercial to commercial) and some residual contamination is removed, so that the cover is no longer needed over a portion of the site. The rest of the cover remains.</p> <p>b) During redevelopment, a building is placed in an area where a cover was, and now acts as part or all of the cover. The cover footprint is expanded or contracted. There is no other exposure pathway of concern.</p> <p>c) Construction where a cover is replaced with a building and new utility work is associated with the development:</p> <ul style="list-style-type: none"> • inhabited • occupational • storage <p>d) Addition to or replacement of the cover is a</p>	Post-closure modification fee: \$1050 and Database fees: \$300 and/or \$350	AC 181	<i>Continuing Obligation Request Received with Fees</i> Requestor notifies DNR about a change, submits plan for review with fees
			AC 193	<i>Post-Closure Modification Initial Approval</i> Team Supervisor or Closure Committee approves action; DNR Project Manager provides written approval of request
			AC 194	<i>Post-Closure Modification Final Documentation Received</i> Requestor submits documentation of change; revised maintenance plan, photographs, monitoring well abandonment forms, cover location maps
			DNR provides closure letter addendum: DNR closure/VPLE committee reviews submittal, as appropriate. DNR Project Manager prepares the closure letter addendum for Team Supervisor signature.	
			AC 101	<i>Continuing Obligation Modification Approved</i> Date of closure letter addendum confirming final approval of activities and documentation
DNR updates BOTW with closure letter addendum, revised maintenance plan and photographs, and cover location maps. PM puts paper copy in case file.				



Covers – Category 1

Cover continuing obligation remains in effect. No decrease in extent or protectiveness of cover.

- Same material and extent, no soil movement
- Equally protective material, etc.
- As above, soil disturbance but replace soil in same excavation or send to landfill (utility work)
- Exception to fees: NO fees, but follow PCM process



Category 1 Examples

- a)** replace cover with same material, over the same extent, and no soil removal/disturbance
- b)** replace cover with another, equally or more protective cover (e.g., asphalt to concrete), over same extent, and no soil removal/disturbance
- c)** repair/replacement of cover with same material or equally protective material, over the same extent, and soil disturbance but replacement of soil in same excavation or soil goes to a landfill (utility work)



Covers – Category 2

Changes to Footprint of a Cover

- No change in land use
- Cover extent increases or decreases
- Cover replaced by building as a cover
- Change in cover extent due to soil regrading, movement or importation
 - Compliant with NR 718
- Fees apply: \$1050 + \$300



Category 2 Examples

- a)** A site is redeveloped, (commercial to commercial) and some residual contamination is removed; cover is no longer needed over a portion of the site. The rest of the cover remains.
- b)** During redevelopment, a building is placed in an area where a cover was, and now acts as part or all of the cover. The cover footprint is expanded or contracted. There is no other exposure pathway of concern.
- c)** Construction where a cover is replaced with a building and new utility work is associated with the development
- d)** Addition to or replacement of the cover is a result of soil grading, movement or importation, in compliance with ch. NR 718, Wis. Adm. Code



Change to CO – Category 3

- Satisfaction of one or more COs
- Changes to COs: may apply to site or single/multiple properties
 - Residual contamination meets standards
 - Additional remedial action taken
 - Land use change triggers need to evaluate protectiveness
 - Cover removal/replacement with movement of soil on the same property
- Fees: \$1,050 + \$300/\$350



Category 3 Examples

- a)** an infiltration and direct contact cover is changing and will now be for direct contact only
- b)** removal of a continuing obligation, due to satisfaction of the continuing obligation
- c)** cover is no longer required, as groundwater is less than enforcement standard (PAL exemption may be needed)
- d)** site or property now meets RCLs or enforcement standards (PAL exemption may be needed)



Category 3 Examples (cont.)

e) land use change triggers need to evaluate whether the cover is protective of the new use, or if changes are needed to either the cover or continuing obligations, but does not trigger the criteria to reopen in Wis. Admin. § NR 727.13

f) excavation for soil remediation modifies closure conditions

g) cover removal/replacement with movement of soil on the property (*soil management plan included in post-closure modification request)



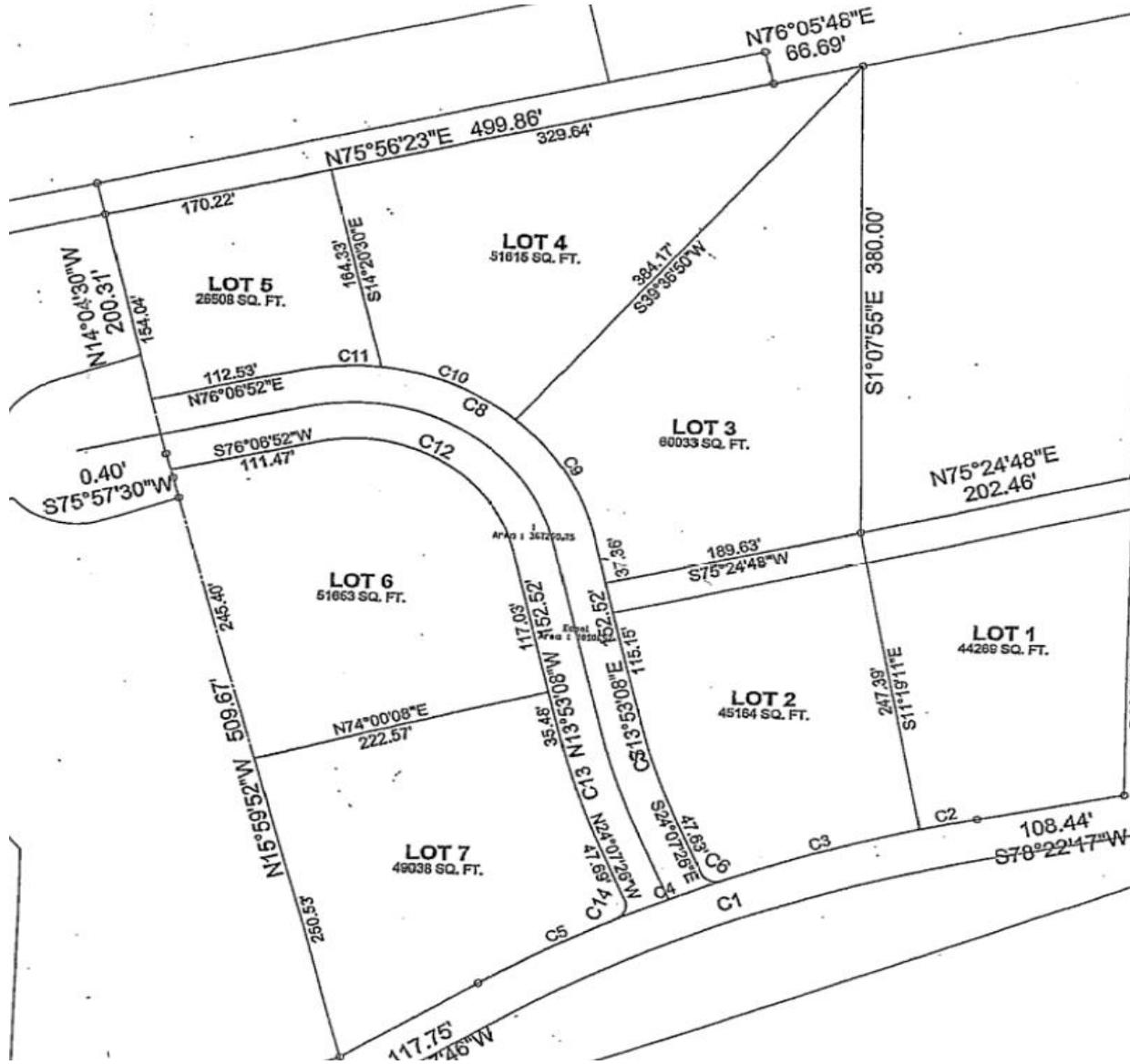
Property Boundary Changes – Category 4

- Splitting off of uncontaminated parcels
- Combining parcels and/or sites
- Splitting property into multiple parcels
 - Changes to maintenance plans
 - Clarification of COs for new parcels
 - Fees: \$1,050 + \$300/\$350



Category 4 Examples

- a) change to property boundaries, deeds
- b) construction of new roadways/rights-of-way in areas with continuing obligations
- c) a property with a continuing obligation is subdivided: splitting an uncontaminated parcel off from a contaminated property





Multiple Actions?

- Multiple actions can be included in one submittal, for one set of fees
 - Actions all need to be taking place within the same time frame
 - Separate submittals needed for actions taking place at different times
 - Need to be very clear about what is taking place/proposed



Other Common Submittals

- Historic Fill Exemption request*
- Soil Management Plans
- Technical assistance: for actions not included with PCM request

Separate fees if separate requests.

*HFE request will be charged separate fee regardless.



Non-PCMs

- New sources: new site
- NR 727.13 Reopening Criteria:
 - Risk to public health, safety, welfare or the environment
 - Non-compliance with continuing obligations
 - Upon request of RP or property owner



Summary

- PCM Process
 - Applicant: Notification/submit proposal of changes affecting COs
 - DNR: Review, approval to proceed
 - Applicant: Submit documentation
 - DNR: Addendum to closure letter, tracking & PDFs
- Fees and exception: \$1050 + \$300/350
- Cover Changes: repair/replacement & beyond
- Satisfaction of COs, changes to COs
- Property Boundary Changes



Issues & Trends 2016

**June 1, 2016
12:00 p.m.**

NAPL Transmissivity Testing

Audio and information from today's presentation and future *Issues & Trends Series* events can be found on the RR Program Training Webpage at:
[Http://dnr.wi.gov/topic/Brownfields/Training.html](http://dnr.wi.gov/topic/Brownfields/Training.html)

Questions/Comments/Suggestions regarding the
Issues & Trends Series can be submitted to:
DNRRCComments@wisconsin.gov

