



WISCONSIN DEPARTMENT OF NATURAL RESOURCES NOTICE OF FINAL GUIDANCE & CERTIFICATION

Pursuant to ch. 227, Wis. Stats., the Wisconsin Department of Natural Resources has finalized and hereby certifies the following guidance document.

DOCUMENT ID

RR-19-5330-C

DOCUMENT TITLE

Template Letter - Closure Not Recommended

PROGRAM/BUREAU

Remediation and Redevelopment

STATUTORY AUTHORITY OR LEGAL CITATION

Wis. Stats. ch. 292; Wis. Admin. Code ch. NR 700

DATE SENT TO LEGISLATIVE REFERENCE BUREAU (FOR PUBLIC COMMENTS)

26-Aug-19

DATE FINALIZED

02-Sept-19

DNR CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

Signature

September 4, 2019

Date

DNR – Remediation & Redevelopment Program
RR-5330 Template Letter - Closure Not Recommended
INTERIM DRAFT
January 2019

PURPOSE: Use this template whenever closure is not recommended after regional review of the closure submittal.

INSTRUCTIONS: All “closure not recommended” letters must be signed by the regional team supervisor. The letter should be sent on regional letterhead.

Project managers may modify the “Additional Requirements” section and add specific language on why the closure is not being recommended, until this template is updated to include specific example language (coming soon). **Cite Wis. Admin. Code rule series NR 700 references when additional requirements and work needed to meet closure is included within the letter.**

Refer to RR-5555 “Closure Reconsideration Process Flow Chart” for more information on the closure reconsideration process.

NOTES:

Delete highlighted text from the final letter. Note that highlighting instructions in letters updated after 2017 may be inconsistent with old template letters. Be sure to read instructions carefully.

Yellow highlighted text contains notes/directions to DNR staff writing the letter.

Grey highlighted text contains areas where DNR staff need to fill in or replace the information as appropriate.

This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

[DATE]

[RP/Person Conducting Cleanup]

[Address]

[Current Property Owner Name (if not RP)]

[Address]

Subject: Case Closure under Wis. Admin. Code ch. NR 726 Not Recommended
[BRRTS activity name and address], Wisconsin
DNR BRRTS Activity # [BRRTS activity number]
[OPTIONAL] FID #: [FID number]

Dear [RP and current property owner name if different from RP]:

On [DATE site reviewed for closure], the Wisconsin Department of Natural Resources (DNR) reviewed the closure request for the case identified above. As you are aware, the DNR reviews environmental remediation cases for compliance with applicable laws, including Wis. Stat. ch. 292 and Wis. Admin. Code chs. NR 700 – 754 and whether any further threat to public health, safety or welfare or the environment exists at the site or facility, per Wis. Admin. Code § NR 726.13 (2) (b). As discussed with [you and/or your consultant] on [DATE of phone call], case closure is not recommended because additional legal requirements must be met. The purpose of this letter is to inform you of the remaining requirements for obtaining closure. We request that within 60 days of this letter, you provide us with the information requested or your written response regarding the necessary work and a schedule for completion of this work.

Additional Requirements Needed for Case Closure Under Wis. Admin. Code ch. NR 726

As noted above, additional work is necessary to meet the requirements for case closure because [Insert summary of why site case closure was not recommended and what steps the RP needs to take to obtain closure, e.g., additional site investigation or remediation. **Include the following as applicable.**]

Need to Define the Degree and Extent of Contamination

Additional **choose the following as applicable:** soil, groundwater, surface water, sediment, and/or vapor sampling is needed to define the degree and extent of contamination per Wis. Admin. Code § NR 716.11. [Insert necessary site-specific information with appropriate citations.]

Need to Complete a Vapor Investigation

Additional site investigation, per Wis. Admin. Code § NR 716.11 (5), is needed to determine whether vapor intrusion is a completed pathway at this site, or if there is a risk of future vapor exposure due to residual contamination. If vapor intrusion is an issue at this site, document all source control actions taken under Wis. Admin. Code § NR 726.05 (8). [Insert necessary site-specific information with appropriate citations.]

Need to Conduct Additional Groundwater Monitoring

Additional groundwater monitoring is needed to establish compliance with the closure criteria of Wis. Admin. Code § NR 726.05 (6). **[Include the following if applicable]** If monitored natural attenuation is to be used as a remedial action, additional [work/documentation] is needed to demonstrate [insert requirements needed to demonstrate that natural attenuation is applicable and effective in this case,] in compliance with Wis. Admin. Code §§ NR 726.05 (6) (a) 6., (b), (c) and (d). [Insert other necessary site-specific information with appropriate citations.]

Need to Conduct Additional Remedial Action

Additional remedial action is needed to comply with the closure criteria of Wis. Admin. Code ch. NR 726. [Insert necessary site-specific information, including adequacy of source control actions, with appropriate citations.]

Schedule

Within 60 days of the date of this letter, respond in writing with a schedule of your plans to meet these requirements. [Insert specific expected timelines for submittals/work, citing relevant code citations as appropriate. **Examples include supplemental SI workplan within 60 days (NR 716.09 (1)), beginning of additional work within 90 days of approval of workplan (NR 716.11 (2g)), supplemental SIR within 60 days of completion of work (NR 716.15 (1)), etc.]**

Until requirements are met, your site will remain “open” and you are required to submit semi-annual progress reports, per Wis. Admin. Code § NR 700.11. You are also responsible for any operation and maintenance activities required under Wis. Admin. Code § NR 724.13. Once the additional work has been completed, documentation should be submitted to the DNR to demonstrate that the applicable requirements have been met, per the timelines above.

[If closure is the next logical step, insert:] Case closure can be reconsidered by the DNR once documentation has been received. **[With team supervisor permission only use the following two sentences to notify RP that a closure fee will be required upon submittal of the next closure request.]** The review fee submitted with this request was applied to the site investigation review. Another closure review fee will be required with the submittal of the next closure packet. **[Identify if database fees are needed, only if not paid with the current submittal.]**

Conclusion

If you have any questions regarding the information in this letter or would like to schedule a meeting to discuss this case, please contact the DNR project manager, [assigned project manager name] at [phone number and email address]. For more information on the closure reconsideration process, please see DNR publication, RR-102, “Wis. Admin. Code ch. NR 726 Case Closure Reconsideration Process” by visiting dnr.wi.gov, search: RR-102, for more information.

The DNR appreciates your efforts to restore the environment at this site.

Sincerely,

[Team supervisor name]

Team Supervisor, [region name] Region
Remediation & Redevelopment Program

[Team supervisor phone number]

[Team supervisor email]

cc: [Consultant name/address and/or other cc's]