



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-19-5355-C

DOCUMENT TITLE

Model Letter: Final Closure for Soil, Groundwater and/or Monitoring Wells Only

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
RR-5355 Final Closure for Soil, Groundwater and/or MWs Only, November 2015

NOTE: Use this template for the following continuing obligations (COs) only: residual soil contamination > standards, groundwater contamination > standards, or monitoring well abandonment or sampling. If other COs apply, use RR 5351.

- Items in grey are general directions, and should be removed from the letter.
- Do not change or remove language from the template, without Team Supervisor approval. Include information requested. Site-specific information may be added.
- Use section headings. Keep section headings formatted consistent with this template.
- Define all acronyms the first time they are used.
- For all attachments, identify within the letter the name, figure number and date, as applicable (e.g. Monitoring Well Location Map, fig. 3.4, 5/11/2011). Attachments from the closure letter are identified in the Attachment list on the last page.
- Make sure that the options listed in the Continuing Obligations summary section match those in the Closure Conditions section.
- When sending this letter to the Current Property Owner, if different than the RP, additional explanation may be provided.
- **BRRTS Action Codes and sub-options are in pink, for ease of tracking. Do NOT include items in pink in text of letter.**
- **Language in yellow means you need to choose the appropriate option/s or use the language only if applicable.**

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]

[Recipient name and address]

(Current Property Owner Name and Address, if different than RP)

KEEP THIS DOCUMENT WITH YOUR PROPERTY RECORDS

SUBJECT: Final Case Closure with Continuing Obligations
[BRRTS site name and address], WI
DNR BRRTS Activity #: DNR BRRTS number:
Optional: FID#: [FID number]

Dear [RP/recipient name] (and Current Property Owner Name, if different than RP) :

The Department of Natural Resources (DNR) considers site name closed, with continuing obligations. No further investigation or remediation is required at this time. However, you, future property owners and occupants must comply with the continuing obligations as explained in the conditions of closure in this letter. Please read over this letter closely to ensure that you comply with all conditions and other on-going requirements. Provide this letter to anyone who purchases, rents or leases this property from you. Use the following for residential properties. For residential property transactions, you may be required to make disclosures under s. 709.02, Wis. Stats. Use the following 2 sentences if any continuing obligation applies to an affected property or ROW. Certain continuing obligations also apply to affected property owners or rights-of-way holders. These are identified within each continuing obligation.

This final closure decision is based on the correspondence and data provided, and is issued under chs. NR 726 and 727, Wis. Adm. Code. The Specify DNR Region, write out name and put acronym in parentheses Closure Committee OR project manager reviewed the request for closure on [Date site was reviewed for closure]. The Specify DNR Region, write out name and put acronym in parentheses Closure Committee OR project manager reviewed this environmental remediation case for compliance with state laws and standards. Use the following sentence as appropriate. A request for remaining actions needed was issued by the DNR on date, and documentation that the conditions in that letter were met was received on date.

Provide a 1-2 sentence description of the use of the property on which the cleanup and closure was based, any planned use which affected the cleanup employed, the general contaminant/s, media affected and remedial actions taken. Example: This former gas station had soil and groundwater contaminated with petroleum VOCs. Responses included soil excavation and groundwater monitoring. The conditions of closure and continuing obligations required were based on the property being used for Select the applicable use. commercial residential industrial recreational purposes.

AC 334 Use the following paragraph if any MWs are being transferred to another site. Be sure to identify on which property they are located, if not the source property, and include in the cover letter to the OSPO.

Project Managers: make sure these wells are included in the applicable site sampling plan or other approval. Documentation is needed from the 'new' RP that they are willing to take on responsibility for monitoring/abandonment. An access agreement template, RR 970, is available on the Web, for property owners.

Monitoring wells list well ID #s are being transferred for continued monitoring as part of the insert name and BRRTS# of the applicable site. Do NOT fill and seal these wells at this time. Well filling and sealing will be required of list applicable site name for closure, upon conclusion of the cleanup of that site. These wells are identified on the attached map insert map name, figure number, date.

Make sure the continuing obligations selected match those in the Closure Conditions section.

Continuing Obligations

The continuing obligations for this site are summarized below. Further details on actions required are found in the section Closure Conditions. List all of the reasons the site is being included on the database, and delete the rest.

- Option 1- Groundwater contamination is present at or above ch. NR 140 enforcement standards.

- Option 2- Residual soil contamination exists that must be properly managed should it be excavated or removed. NOTE to PM: Residual soil above standards is a continuing obligation with inclusion on the database. If residual soil concentrations are less than standards, inclusion on the database for soil is not applicable.
- Option 3A- One or more monitoring wells were not located and must be properly filled and sealed if found.
- Option 3B- One or more monitoring wells were approved to be kept for further monitoring or insert other reason. Annual inspections are required and the wells must be properly filled and sealed when monitoring or insert other reason has been completed.
- Option 3C- One or more monitoring wells are required to be kept for further monitoring. Annual inspections are required and the wells must be properly filled and sealed when monitoring is no longer required.

Include the following paragraph with all letters. The DNR fact sheet “Continuing Obligations for Environmental Protection,” RR-819, helps to explain a property owner’s responsibility for continuing obligations on their property. The fact sheet may be obtained at <http://dnr.wi.gov/files/PDF/pubs/rr/RR819.pdf>.

DNR Database

This site will be included on the Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web (BOTW) at dnr.wi.gov and search “WRRD”, to provide public notice of residual contamination and of any continuing obligations. The site can also be viewed on the Remediation and Redevelopment Sites Map (RRSM), a map view, at dnr.wi.gov and search “RRSM”.

The DNR’s approval prior to well construction or reconstruction is required in accordance with s. NR 812.09 (4) (w), Wis. Adm. Code. This requirement applies to private drinking water wells and high capacity wells. To obtain approval, complete and submit Form 3300-254 to the DNR Drinking and Groundwater program’s regional water supply specialist. This form can be obtained on-line at dnr.wi.gov and search “3300-254”.

All site information is also on file at the Region Regional DNR office, at insert address. This letter and information that was submitted with your closure request application, including any maintenance plan and maps, can be found as a PDF on BOTW.

For each continuing obligation used, identify which property owner or ROW holder is responsible for the continuing obligation, if other than the source property owner. Use "the property owner of (insert address)" or (insert ROW holder) when necessary. Use an additional format for complex sites, such as a table, if necessary.

Make sure the Closure Conditions selected match those in the Continuing Obligation section. IF IT'S NOT IN THE CLOSURE CONDITION SECTION, IT MAY NOT BE ENFORCEABLE.

Closure Conditions

Compliance with the requirements of this letter is a responsibility to which choose one: you OR the current property owner, and any subsequent property owners must adhere. DNR staff will conduct periodic prearranged inspections to ensure that the conditions included in this letter and the attached maintenance plan are met. If these requirements are not followed, the DNR may take enforcement action under s. 292.11, Wisconsin Statutes to ensure compliance with the specified requirements, limitations or other conditions related to the property.

Please send written notifications add "and inspection reports", if required in accordance with the following requirements to:

Department of Natural Resources
Attn: Remediation and Redevelopment Program Environmental Program Associate or
Project Manager by name
street address of DNR office
city, WI, zip code

**AC 236 OPTION 1, for residual groundwater contamination greater than the ES.
Attach a site map showing the type, location and extent of groundwater
contamination.**

Residual Groundwater Contamination (chs. NR 140 and 812, Wis. Adm. Code)

Groundwater contamination greater than enforcement standards is present both on this contaminated property and off this contaminated property, as shown on the attached map. If you intend to construct a new well, or reconstruct an existing well, you'll need prior DNR approval. add the following sentence, if applicable: Affected property owners were notified of the presence of groundwater contamination. Identify other property owner/s responsible for this CO as well. This continuing obligation also applies to the owners of address of affected property. , and/or the ROW holders for ROW 'address'.

**AC 232 OPTION 2, for residual soil contamination. It should also be used for all
situations where proper handling and/or disposal of residual contaminated soil is
required.**

Attach a site map showing the type, location and extent of soil contamination.

Residual Soil Contamination (ch. NR 718, or ch. 289, Stats.; chs. 500 to 536, Wis. Adm. Code)

Soil contamination remains Specify location(s) of remaining soil contamination as indicated on the attached map. If soil in the specific locations described above is excavated in the future, the property owner at the time of excavation must sample and analyze the excavated soil to determine if contamination remains. If sampling confirms that contamination is present, the property owner at the time of excavation will need to determine whether the material is considered solid or hazardous waste and ensure that any storage, treatment or disposal is in compliance with applicable standards and rules. Contaminated soil may be managed in accordance with ch. NR 718, Wis. Adm. Code, with prior DNR approval. Identify other property owner/s responsible for this CO as well. This continuing obligation also applies to the owners of address of affected property. , and/or the ROW holders for ROW 'address'.

In addition, all current and future owners and occupants of the property need to be aware that excavation of the contaminated soil may pose an inhalation or other direct contact hazard and as a result special precautions may need to be taken to prevent a direct contact health threat to humans.

Use the following paragraph if volatile compounds are present.

Depending on site-specific conditions, construction over contaminated soils or groundwater may result in vapor migration of contaminants into enclosed structures or migration along newly placed underground utility lines. The potential for vapor inhalation and means of mitigation should be evaluated when planning any future redevelopment, and measures should be taken to ensure the continued protection of public health, safety, welfare and the environment at the site.

**OPTION 3, where monitoring wells are missing, or continued monitoring was
approved or required.**

AC 234-choose the applicable option; A, B or C.

AC 238 if submittal of inspection reports is required.
Attach a site map showing the location(s) of all applicable wells.

Option 3AMW was not able to be located

Monitoring Wells that could not be Properly Filled and Sealed (ch. NR 141, Wis. Adm. Code)
Monitoring well(s) list well ID #s located on list the specific property(ies) or location(s) shown on the **attached map**, could not be properly filled and sealed because they were missing due to being paved over, covered or removed during site development activities. Your consultant made a reasonable effort to locate the wells and to determine whether it was (they were) properly filled and sealed but was unsuccessful. You may be held liable for any problems associated with the monitoring wells if they create a conduit for contaminants to enter groundwater. If any of the groundwater monitoring wells are found, the then current owner of the property on which the well is located is required to notify the DNR, to properly fill and seal the wells and to submit the required documentation to the DNR. Identify other property owner/s responsible for this CO as well. This continuing obligation also applies to the owners of address of affected property. , and/or the ROW holders for ROW 'address'.

Option 3B, continued use of MW requested/approved

Continued Monitoring Approved

Your request for continued monitoring of wells list well ID#s, located on list the specific property(ies) or location(s) shown on the **attached map**, is approved. Sampling results must be submitted to the DNR within 10 days of receipt of the results. An annual inspection of the well is required to verify the integrity of the monitoring well construction, starting one year after the date of this letter. The inspection log shall be maintained on site, and select an option: be made available to the DNR upon request. OR be submitted with the sampling results report. Identify other property owner/s responsible for this CO as well. This continuing obligation also applies to the owners of address of affected property. , and/or the ROW holders for ROW 'address'.

You may be held liable for any problems associated with the monitoring wells if they create a conduit for contaminants to enter groundwater. Once monitoring of these wells ends, the owner of the property on which the wells are located is required to notify the DNR, to properly fill and seal the wells and to submit the required documentation to the DNR.

Options 3C, continued monitoring required

Continued Monitoring Required

The DNR is requiring continued monitoring of wells list well ID #s, as a condition of closure. The wells are located on List the specific property(ies) or location(s), as shown on the **attached map**. These wells shall be sampled list sampling frequency and the types of compounds to be analyzed. Sampling results must be submitted to the DNR within 10 business days of receipt of the results. An annual inspection of the well is required to verify the integrity of the monitoring well construction, starting one year after the date of this letter. The inspection log shall be maintained on site, and select an option: be made available to the DNR upon request. OR be submitted with the sampling results report. Identify other property owner/s responsible for this CO as well. This continuing obligation also applies to the owners of address of affected property. , and/or the ROW holders for ROW 'address'.

You may be held liable for any problems associated with the monitoring wells if they create a conduit for contaminants to enter groundwater. Once monitoring ends, the owner of the property on which the wells are located is required to notify the DNR, to properly fill and seal the wells and to submit the required documentation to the DNR.

Other Closure Information

Use for sites with an approved exemption for development at a historic fill site, sites with AC 402 or 404, or an approval for a licensed landfill, tracked by WMM in FIST.

WMM staff can help with determining whether a site is listed in FIST - the tracking system used for exemption approvals at licensed landfills.

Sites with an Exemption for Development at a Historic Fill Site or Licensed Landfill

Information presented in the site investigation report indicates that subsurface materials consist of historic fill material. An approval for development at a Historic Fill Site or Licensed Landfill was approved by the DNR on date of approval, for the construction of provide description of development. Any redevelopment of this property will require compliance with the approved exemption. Any changes from the approval date exemption will require prior DNR approval in writing. Please refer to the Development at Historic Fill Site or Licensed Landfill guidance for further information at dnr.wi.gov and search “historic landfill development”.

Use for sites without an approved exemption for development at a historic fill site.

Sites with Historic Fill

Information presented in the site investigation report indicates that subsurface materials consist of historic fill material. As such, the property owner must comply with any conditions required by solid waste rules in ch. NR 500 Wis. Adm. Code rules series as long as any waste materials remain in place. Any future redevelopment of this property must take into account consideration of the presence of waste materials and will require the issuance of an exemption from the DNR to build on an abandoned landfill prior to the start of any construction. Please refer to the Development at Historic Fill Site or Licensed Landfill guidance for further information at dnr.wi.gov and search “historic landfill development”.

Use for sites where remaining soil contamination meets soil RCLs. The site does not go on the database for soil in this case.

Sites with Contaminant Concentrations that Meet Soil Standards

Some contamination remains in the soil describe the location of the remaining soil contamination. If this soil is excavated in the future, the property owner or right-of-way holder at the time of excavation must determine if contamination remains. If contamination is present, the property owner or right-of-way holder at the time of excavation will need to determine whether the material is considered solid or hazardous waste and ensure that any storage, treatment or disposal is in compliance with applicable standards and rules. Contaminated soil may be managed in accordance with ch. NR 718, Wis. Adm. Code, with prior DNR approval.

Use where shallow groundwater contamination is present in concentrations of concern should dewatering activities occur in the future

General Wastewater Permits for Construction Related Dewatering Activities

The DNR’s Water Quality Program regulates point source discharges of contaminated water, including discharges to surface waters, storm sewers, pits, or to the ground surface. This includes discharges from construction related dewatering activities, including utility and building construction.

If you or any other person plan to conduct such activities, you or that person must contact that program, and if necessary, apply for the necessary discharge permit. Additional information regarding discharge permits is available at dnr.wi.gov and search “wastewater permits”. If residual soil or groundwater contamination is likely to affect water collected in a pit/trench that requires dewatering, a general permit for Discharge of Contaminated Groundwater from Remedial Action Operations may be needed. If water collecting in a pit/trench that requires dewatering is expected

to be free of pollutants other than suspended solids and oil and grease, a general permit for Pit/Trench Dewatering may be needed.

AC 48 Use only the following NR 140 exemption option that is appropriate

Chapter NR 140, Wis. Adm. Code Exemption

Option A: granting a PAL exemption for a substance of public health concern, other than nitrate, when the BG concentration of that substance is below the PAL (NR 140.28(2)(b))

Recent groundwater monitoring data at this site indicates that for Health substance (e.g. benzene) at Monitoring point/s with the exceedance (e.g. MW4) and Health substance (e.g. vinyl chloride) at Monitoring point/s with the exceedance (e.g. MW4), contaminant levels exceed the NR 140 preventive action limit (PAL) but are below the enforcement standard (ES). The DNR may grant an exemption to a PAL for a substance of public health concern, other than nitrate, pursuant to s. NR 140.28 (2) (b), Wis. Adm. Code, if all of the following criteria are met:

1. The measured or anticipated increase in the concentration of the substance will be minimized to the extent technically and economically feasible.
2. Compliance with the PAL is either not technically or economically feasible.
3. The enforcement standard for the substance will not be attained or exceeded at the point of standards application. [Note: at this site the point of standards application is all points where groundwater is monitored.]
4. Any existing or projected increase in the concentration of the substance above the background concentration does not present a threat to public health or welfare.

Based on the information you provided, the DNR believes that these criteria have been or will be met. Provide the reason why the exemption criteria have been met (e.g. because of the response actions that have been taken). Therefore, pursuant to s. NR 140.28, Wis. Adm. Code, an exemption to the PAL is granted for Health substance (e.g. benzene) at Monitoring point/s with the exceedance, e.g. MW4 and health substance, e.g. vinyl chloride at Monitoring point/s with the exceedance, e.g. MW5. Please keep this letter, because it serves as your exemption.

OPTION B: Granting an exemption for a substance of public welfare concern or nitrate (NR 140.28(2)(a), (3)(a) and (4)(a)).

Recent groundwater monitoring data at this site indicates exceedances of the ch. NR 140, Wis. Adm. Code, select one: preventive action limit OR enforcement standard for Welfare substance, e.g. sulfate at Monitoring point/s with the exceedance, e.g. MW3. The DNR may grant an exemption for a substance of public welfare concern, or nitrate, pursuant to ss. NR 140.28 (2) (a), (3) (a) and (4) (a), Wis. Adm. Code, if actions have been taken to achieve the lowest possible concentration for that substance which is technically and economically feasible and the existing or anticipated increase in the concentration of that substance does not present a threat to public health or welfare.

Based on the information you provided, the DNR believes that the criteria for an exemption have been or will be met. Provide the reason why the exemption criteria have been met (e.g. because of the response actions that have been taken). Therefore, pursuant to s. NR 140.28, Wis. Adm. Code, an exemption to the preventive action limit OR enforcement standard is granted for identify the welfare substance, e.g. sulfate at identify monitoring point/s with the exceedance. Please keep this letter, because it serves as your exemption.

If the background concentration is above the enforcement standard add: Pursuant to s. NR 140.28 (4) (c), Wis. Adm. Code, if the background concentration of a contaminant is above the

enforcement standard, the DNR shall take action under s. NR 140.26 if it determines that an increase in the concentration of Welfare substance (e.g. iron) causes an increased threat to public health or welfare or it determines that the incremental increase in the concentration of Welfare substance (e.g. iron), by itself, exceeds the preventive action limit.

OPTION C: Granting an exemption for a substance of public health concern, other than nitrate, when the background concentration is between the PAL and ES (NR 140.28(3)(b)) or above the ES (NR 140.28(4)(b) and (c)).

DELETE this instruction after the WDNR staff person contacts Bill Phelps, DG/5 (608) 267-7619 or William.Phelps@Wisconsin.gov for Option C exemption language tailored to meet site-specific conditions.

USE THE FOLLOWING FOR A PECFA SITE

PECFA Reimbursement

Section 101.143, Wis. Stats., requires that Petroleum Environmental Cleanup Fund Award (PECFA) claimants seeking reimbursement of interest costs, for sites with petroleum contamination, submit a final reimbursement claim within 120 days after they receive a closure letter on their site. For claims not received within 120 days of the date of this letter, interest costs after 60 days of the date of this letter will not be eligible for PECFA reimbursement. If there is equipment purchased with PECFA funds remaining at the site, contact the DNR program to determine the method for salvaging the equipment.

Per Wisconsin Act 55 (2015 State budget), a claim for PECFA reimbursement must be submitted within 180 days of incurring costs (i.e., completing a task). If your final PECFA claim is not submitted within 180 days of incurring the costs, the costs will not be eligible for PECFA reimbursement.

USE THE FOLLOWING FOR A DERF SITE

Operating Dry Cleaners

In order to remain eligible for future reimbursement of cleanup costs from the Dry Cleaner Environmental Response Fund (DERF), the owner or operator of the dry cleaning facility must implement enhanced pollution prevention measures within 90 days of the date of this letter. These measures are found in Section 292.65 (5) (a) 2, Wis. Statutes, and NR 169.11 (2), Wis. Adm. Code. In accordance with Section 292.65 (8) (f), Wis. Stats., the maximum amount of money that DERF can reimburse to any facility is \$500,000. The enhanced pollution prevention measures include:

- all wastes must be managed in accordance with federal and state hazardous waste rules;
- dry cleaning product or wastewater may not be discharged into any sanitary sewers, septic tanks, or any waters of the State;
- a containment structure must entirely surround and be capable of containing any spill or release of a dry cleaning product from a dry cleaning machine or other equipment;
- the floor within any containment structure must be sealed and be impervious to dry cleaning product;
- perchloroethene must be delivered to the dry cleaning facility by means of a closed, direct coupled delivery system.

In order to retain eligibility, you will need to verify that you have implemented these pollution prevention measures. Additional documentation, such as invoices and photographs of any enhanced pollution prevention measures you implement, can be used to provide verification.

In Closing

Please be aware that the case may be reopened pursuant to s. NR 727.13, Wis. Adm. Code, for any

of the following situations:

- if additional information regarding site conditions indicates that contamination on or from the site poses a threat to public health, safety, or welfare or to the environment,
- if the property owner does not comply with the conditions of closure, with any deed restrictions applied to the property, or with a certificate of completion issued under s. 292.15, Wis. Stats, or
- a property owner fails to maintain or comply with a continuing obligation (imposed under this closure approval letter).

The DNR appreciates your efforts to restore the environment at this site. If you have any questions regarding this closure decision or anything outlined in this letter, please contact **Staff name** at **Staff phone number**, or at **staff email address**.

Sincerely,

Team Supervisor's Name
RegionTeam Supervisor
Remediation & Redevelopment Program

Attach, as necessary, the items listed in the body of the letter and any other information needed. Reference the figure, map or table name, number and date. The attachment references below are just from the closure form - use the title, figure number and date from the RP's/consultant's report.

Attachments:

- remaining groundwater contamination map, Attachment B.3.b, date
- remaining soil contamination map, Attachment B.2.b/B.2.c, date
- missing monitoring well location map, Attachment B.3.d, date
- inspection log, DNR Form 4400-305

cc: **Consultant name/address and/or other cc's**

Include Bill as a CC if NR 140 exemption language is used.
Bill Phelps, DG/5

NOTE to PM: cover letters are needed for affected property owners and ROW holders, see RR 5433. Send an email for DOT ROWs.