



## 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-19-5416-C

### DOCUMENT TITLE

Model Certificate of Completion (COC) for Voluntary Party Liability Exemption (VPLE) Program - Standard Template

### 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

*State of Wisconsin*  
*Department of Natural Resources*

**CERTIFICATE OF COMPLETION  
OF RESPONSE ACTIONS  
UNDER SECTION 292.15(2)(a), WIS. STATS.**

*Whereas*, [name of voluntary party] has applied for an exemption from liability under s. 292.15, Wis. Stats., for the property located at [address, city], Wisconsin, which is commonly referred to as the [site name] site, further described in the legal description found on Attachment A (the “Property”);

*Whereas*, an environmental investigation of the Property has been conducted and the Wisconsin Department of Natural Resources (“WDNR”) has determined that environmental contamination exists at the Property;

*Whereas*, [name of voluntary party] has submitted to the WDNR certain investigation reports and a remedial action plan for the Property which comply with the requirements set forth in chs. NR 700-754, Wis. Adm. Code, consisting of the documents and reports listed in Attachment B;

*Whereas*, in accordance with s. 292.15(2)(a)1, Wis. Stats., the WDNR has determined that an environmental investigation has been conducted which adequately identified and evaluated the nature and extent of the hazardous substance discharges on the Property. The WDNR approved of the site investigation on [most recent date SI(s) was approved];

**[Use if applicable – historic fill/abandoned landfill]**

*Whereas*, the WDNR has determined that the historic fill material brought onto or existing at the Property in the past does not qualify as exempt under s. NR 500.08, Wis. Adm. Code. On [date], WDNR issued a Conditional Grant of Exemption for Development on Historic fill for construction which has been completed on the Property, Attachment D. If anyone proposes to do any future construction work on the Property, that person would also have to obtain approval for that work from the WDNR under s. NR 506.085, Wis. Adm. Code, prior to initiating any construction on the Property;

**[Include this section below if the site is going on GIS registry]**

*Whereas*, the Property contains soil contamination that exceeds site-specific

and/or generic residual contaminant levels (“RCLs”) under ch. NR 720, Wis. Adm. Code. Therefore, the Property will be included on the WDNR’s Geographical Information System data base (“the GIS Registry”) pursuant to s. 292.12(3), Wis. Stats. **[name of voluntary party]** has submitted to the WDNR all the information necessary to be included on the GIS Registry, pursuant to Wis. Adm. Code;

*Whereas*, on **[date closure letter was written]**, the WDNR issued a case closure letter for the Property (Attachment C). The owner of this Property shall adhere to, abide by, and maintain the continuing obligations and other requirements that are specified in the attached state case closure letter and maintenance plan(s); **ALL CONDITIONS OF THE CLOSURE LETTER SHOULD BE BRIEFLY LISTED HERE THE FOLLOWING TWO SENTENCES SHOULD BE USED FOR MOST LETTERS. BUT THIS SECTION SHOULD BE AMENDED AS NECESSARY; VAPOR INTRUSION OBLIGATIONS SHOULD BE LISTED HERE TOO** The WDNR requires maintenance of a cover or barrier in order to prevent direct contact with and infiltration through residual soil contamination that might otherwise pose a threat to public health and the environment. The closure letter requires that if soil with residual contamination is excavated in the future, the Property owner at the time of excavation must manage the soil in accordance with applicable federal and state laws.

**USE ONE OF THE FOLLOWING TWO PARAGRAPHS - #1 if site remedy not appropriate for any land-use, #2 if the site could be used for any land-use**

*Whereas*, the WDNR has determined that the response action is complete and was based on the Property being used as an industrial and/or commercial facility. In the event that the cover or barrier that currently exist are removed, the replacement barrier must be equally protective. Because of the residual contamination and certain continuing obligations for this site, before use of this site can be changed to residential use, or use by certain sensitive populations, such as a day care center, school, a senior center, hospital or a similar use, notification of the Department is required at a minimum. Additional sampling and/or cleanup may be required to ensure that the residual contamination levels, existing remedial action and land use is protective;

*Whereas*, residual contamination remains at the Property and the approval of the response action is based on a non-industrial land (e.g Residential use classification, per ch. NR 720, Wis. Adm. Code). This would allow for industrial or non-industrial use of the Property, consistent with the limitations specified in the document. As a result, the response action would not need to be re-evaluated to determine if it is protective based on future land uses;

*Whereas*, if the requirements of this Certificate, the case closure letter or the maintenance plans are not followed, or if the land use changes, the WDNR may take actions under ss. 292.11 or 292.12, Wis. Stats., to ensure compliance with the specified requirements, and the person who owns or controls the Property may no longer qualify for the liability protections under s. 292.15, Wis. Stats.; and

**[use if applicable – PAL exceedance exemption]**

*Whereas*, on [date PAL exemption was issued], the WDNR has granted [name of voluntary party] an exemption under [relevant section of NR 140.28] Wis. Adm. Code for having [type of hazardous substance] in the groundwater above the ch. NR 140 preventive action limit;

*Whereas*, on [date closure letter was written], the WDNR determined that response actions necessary to restore the environment were completed.

*Therefore*, based upon the information that has been submitted, the WDNR hereby certifies that the response actions set forth in the WDNR approved remedial action plan for the Property and any other necessary response actions have been completed. Upon issuance of this Certificate, [name of voluntary party] and the persons qualified for protection under s. 292.15(3), Wis. Stats., are exempt from the provisions of ss. 289.05(1), (2), (3) and (4), 289.42(1), 289.67, 291.25(1) to (5), 291.29, 291.37, 292.11(3), (4), and (7)(b) and (c) and 292.31(8), Wis. Stats., with respect to the existence of hazardous substances on or originating from the Property, the release of which occurred prior to the date the WDNR approved the environmental investigation required under s. 292.15(2)(a)1., Wis. Stats. However, the person who owns or controls the Property would no longer qualify for this liability exemption if that person fails to maintain or monitor the Property as required by the conditions in this Certificate, the [date(s) of closure letter] case closure letter, s. 292.12, Wis. Stats., and administrative rules promulgated by the WDNR. Any discharges of a hazardous substance to or from the Property that occur after the date that the environmental investigation was approved will be the responsibility of the current Property owner and any other person who possesses or controls that discharge and any person who caused the discharge.

The protection from liability provided under s. 292.15(2), Wis. Stats., does not apply to any person who has obtained a Certificate of Completion by fraud or misrepresentation, or by knowingly failing to disclose material information or under circumstances in which [name of voluntary party] knew or should have known about more discharges of hazardous substances than was revealed by the investigation approved by the WDNR.

Nothing in this Certificate or in s. 292.15, Wis. Stats., affects the authority of the WDNR to exercise any powers or duties under applicable laws other than ss. 289.05(1), (2), (3) and (4), 289.42(1), 289.67, 291.25(1) to (5), 291.29, 291.37, 292.11(3), (4), and (7)(b) and (c) and 292.31(8), Wis. Stats., with respect to any release or threatened release of contaminants at the Property, or the right of the WDNR to seek relief available against any person who is not entitled to protection from liability under s. 292.15, Wis. Stats., with respect to such release or threatened release.

SIGNED AND CERTIFIED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Mark F. Giesfeldt, Director  
Bureau for Remediation and Redevelopment  
Wisconsin Department of Natural Resources

**ATTACHMENT A  
LEGAL DESCRIPTION  
[site name]**

**Note: if the legal description for the property is shorter than a few lines you should carefully retype it and include it here. Be very careful not to make any errors because it is easy to do and will caught by some attorney and the COC may need to be reissued. For most legal descriptions, you should attach a copy of the deed or Certified Survey Map that has a clear legal description.**

A reference to the attached document should be listed here, for example:

**See attached Warranty Deed Doc. # 1111111 recorded with Dane County Register of Deeds Office on February 9, 2001 and Certified Survey Map No. 1222 recorded with Dane County Register of Deeds Office on June 20, 1970.**

**ATTACHMENT B**  
**INVESTIGATION AND REMEDIAL ACTION PLAN REPORTS**  
**[site name]**

1. insert list of documents used and submitted to make completion determination, list should include title of report, date of report, and who prepared it.

2.

3.

4.

5.

**ATTACHMENT C**  
**Closure Letter and Cap Maintenance Plan**  
**Conditional grant of exemption (if applicable)**  
**[site name]**

See Attached **[date closure letter was sent]**, Case Closure Letter and cap maintenance plan for the **[site name]** site.

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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.

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