



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-19-5420-C

DOCUMENT TITLE

Model Letter: RP Letter - Reopener

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-5420 RP Letter - Reopener, January 2016**

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.

NOTE to STAFF: All reopeners must be approved by the Team Supervisor. Use this template to reopen a case. Under s. NR 727.13, Wis. Adm. Code, sites may be reopened if:

727.13(1) "...information regarding the site or facility condition indicates that contamination on or from the site or facility poses a threat to public health, safety, or welfare or the environment."

727.13(2) "...a property owner fails to comply with a condition of closure, a deed restriction, or with a certificate of completion issued pursuant to s. 292.15, Stats, or fails to maintain or comply with a continuing obligation."

727.13(4) "...The party who conducted the cleanup, or a person who owns the property, or a person who owns an affected property, may request reopening of a closed case, or may conduct additional remedial actions."

PECFA eligible sites: Reopening must be approved by the Bureau Director.

[Date]

[Click here and type recipient address]

Subject: Reported Contamination at [BRRTS site name and address], WI
Reopening of Closed Case
DNR BRRTS # BRRTS number

Dear RP's name:

On notification date, name of individual and/or company reporting the contamination on behalf of the RP's name or company, notified the Wisconsin Department of Natural Resources (WDNR) that contaminant type had been detected at the site described above. Since that time, WDNR has determined that this contamination on or from the above-described site poses a threat to public health, safety, welfare or the environment.

Based on the information that has been submitted to WDNR to date regarding this site, we believe that this newly reported contamination is residual contamination from a previously identified hazardous substance release for which you were responsible, which was closed by WDNR on date of closure letter (see records related to BRRTS # insert BRRTS #). The WDNR also believes that a response action in the form of additional investigation and possible additional remediation is needed because In accordance with s. NR 727.13(3), provide information about the nature of the problem and the category of response action that is needed. Describe the nature of the contamination and the risk that it presents. Also identify if any of the following are issues of concern: vapor intrusion, change in land use or zoning, or removal of a structural impediment.

As owner of the property where residual contamination is found, OR the entity that caused the discharge of this hazardous substance contamination, you are responsible for restoring the environment at the above-described site under s. 292.11, Wis. Stats., known as the hazardous substances spills law.

This letter describes your legal responsibilities under s. 292.11 Wis. Stats., and explains what you need to do to investigate and clean up the contamination under chs. NR 700-754, Wis. Adm. Code. It also provides you with information about cleanups, environmental consultants, possible financial assistance, and working cooperatively with WDNR.

Legal Responsibilities:

Your legal responsibilities are defined both in statute and in administrative codes. The hazardous substances spill law, s. 292.11 (3) Wis. Stats., states:

- **RESPONSIBILITY.** A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands, or waters of the state.

Wisconsin Administrative Code chapters NR 700 through NR 754 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Chapter NR 708 includes provisions for immediate actions in response to limited contamination. Chapter NR 140, Wis. Adm. Code establishes groundwater standards for contaminants that reach groundwater.

Steps to Take:

The longer contamination is left in the environment, the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs in investigating and cleaning up the contamination. To ensure that your cleanup complies with Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. The following information provides the timeframes and required steps to take. Unless otherwise approved by DNR in writing you must complete the work by the timeframes specified.

1. Within the next **30 days**, by [Enter the date, 30 days after the date of mailing], submit written verification (such as a letter from the consultant) that you have hired an environmental consultant. If you do not take action within this time frame, WDNR may initiate enforcement action against you.
2. Within the next **60 days**, by [Enter the date, 60 days after the date of mailing], have your consultant submit a work plan for completing the investigation. The consultant must comply with the requirements in the NR 700 rule series and should refer to WDNR technical guidance documents. To facilitate prompt agency review of your reports, your consultant should use the site investigation and closure formats which are available on-line at <http://dnr.wi.gov/topic/Brownfields/Professionals.html>.

3. You must initiate the site investigation within 90 days of submitting the site investigation work plan. If a fee for WDNR review has been submitted, the site investigation must begin within 60 days after receiving WDNR comments.
4. Within 60 days after completion of the field investigation and receipt of the laboratory data, you or your consultant must submit a site investigation report to WDNR.
5. Within 60 days after submitting the Site Investigation Report, you must submit a remedial actions options report (RAOR). The RAOR shall include an evaluation of Green and Sustainable Remediation opportunities as required by s. NR 722.09 (2m), Wis. Adm. Code.

Sites where discharges to the environment have been reported are entered into the Bureau for Remediation and Redevelopment Tracking System (BRRTS), a version of which appears on the WDNR's Internet site (BRRTS on the Web). You may view the information related to your site at any time (<http://dnr.wi.gov/topic/Brownfields/wrrd.html>) and use the feedback system to alert us to any errors in the data.

If you want a formal response from the agency on a specific submittal, please be aware that a review fee is required in accordance with ch. NR 749, Wis. Adm. Code. If a fee is not submitted with your reports, you should proceed under the advice of your consultant to complete the site investigation to maintain your compliance with the spills law and chapters NR 700 through NR 754. **The timeframes specified above are required by rule; do not delay the investigation of your site.** We have provided detailed technical guidance to environmental consultants. Your consultant is expected to know our technical procedures and administrative rules and should be able to answer your questions on meeting cleanup requirements.

All correspondence regarding this site should be sent to:

DNR Staff Name
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
P. O. Box [P.O. Box Number]
[City, State and Zip Code]

Unless otherwise directed, submit one paper copy and one electronic copy of plans and reports. To speed processing, correspondence should reference the BRRTS and FID numbers (if assigned) shown at the top of this letter.

customize as needed

Additional Information for Site Owners:

We encourage you to visit our website at <http://dnr.wi.gov/topic/Brownfields/>, where you can find information on selecting a consultant, financial assistance and understanding the cleanup process. You will also find information about liability clarification letters, post-cleanup liability and more.

Information on **enter items included here** is enclosed.

If you have questions, call the WDNR **Project Manager** OR **Environmental Program Associate** at telephone number for more information or visit the RR Web site at the address above.

Thank you for your cooperation.

Sincerely,

[Staff name]

[Staff title]

Remediation & Redevelopment Program

Enclosures: customize as needed

1. Selecting an Environmental Consultant, RR 502
<http://dnr.wi.gov/files/PDF/pubs/rr/RR502.pdf>
2. VPLE Fact Sheet 2, VPLE, Voluntary Party Remediation and Exemption from Liability, RR 506
<http://dnr.wi.gov/files/PDF/pubs/rr/RR506.pdf>

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