



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-19-5544-C

DOCUMENT TITLE

Access Agreement 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.

A handwritten signature in black ink that reads "Jennifer Haeg".

Signature

September 4, 2019

Date

Template Access Agreement, RR-5544

Instructions:

This template should be used by staff when requesting access of landowners for DNR staff or contractors for explicitly authorized RR Program purposes. It is a general-purpose template and should be used in situations where a specific-purpose template is not available. Specific-purpose templates include:

- Template for DNR access for vapor mitigation system installation, [RR-5457](#)
- Template for DNR access to private property for vapor intrusion system installation, [RR-5456](#)
- Template for RP access to sample for vapor intrusion, [RR-976](#)
- Template for RP access to install vapor mitigation system, [RR-984](#)
- Sample Site Access Agreement for WAM Contractor Services Awards (on [web](#))

Please note that:

- State agencies may not enter into agreements that indemnify another party; and
- Agreements should not identify consultants and contractors for responsible parties as “DNR’s agent or representative” due to the potential risk of liability for damage or injury.

Grey highlighted text contains areas where DNR staff need to fill in the information.
Aqua highlighted text contains notes/directions to the DNR staff using the template.

When providing this template to DNR contractors or private property owners, please remove this cover page. Please do not provide this template to responsible parties or their respective contractors for their use in obtaining access to private property. It is tailored for use by the department and the department’s contractors and may not be appropriate for other uses.

Other general information on private property access:

In cases where access permission is not granted, staff may be able to seek court permission for entry via a special inspection warrant. Please see:

- Special Inspection Warrants - Environmental Protection; [Manual Code 4191.5](#)
- Access Issues and Inspection Warrants; [RR-5407](#)

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.

Wisconsin Department of Natural Resources
ACCESS PERMISSION AGREEMENT

BRRTS# XX-XX-XXXX
Property type: Source/Off-site

I, name hereby give my permission to the Wisconsin Department of Natural Resources (“the department”) and its employees, duly authorized representatives, agents and contractors, to enter upon and have access at reasonable times to the home and property located at street address, city within -- 1/4 of Section --, T--N, R--E, ----- County, Wisconsin, referred to herein as the “Property”, and that is owned by owner for the following purposes, so that the department may:

[For example:

- (1) Conduct a site visit to complete a Phase I Environmental Site Assessment;
- (2) Install and maintain permanent or temporary groundwater monitoring wells;
- (3) Collect soil samples and water samples;
- (4) Install and maintain sub slab vapor probes, collect sub slab vapor samples and properly abandon sub slab vapor probes
- (5) Collect indoor air samples;
- (6) Properly abandon the groundwater monitoring wells installed by the Wisconsin DNR when the wells are no longer needed.]

The department is responsible for any investigative waste that is produced by these activities and will return to collect any investigative waste that may be temporarily stored on the Property.

The permission that is granted herein shall remain in effect until _____, 20___. After _____, 20___, if the owner of the Property wishes to withdraw permission for continued access, the owner of the Property shall notify the department of that fact in writing. The department shall, within 90 days after receiving such notice, either cease/finalize listed activities, abandon wells, etc. (list specific actions) or obtain a court order to allow continued access.

The DNR’s authority to access to the Property described above is provided under Wisconsin Statutes, section enter the correct statutory section.

Statutory sections authorizing access for specific RR Program purposes include:

- Wis. Stat. § 292.11(8) – removal or other emergency action
- Wis. Stat. § 292.31(3) – investigate or remediate site or facility
- Wis. Stat. § 292.41(5) – abandoned containers

Use the following language regarding Wis. Admin. Code chapter NR 716.14 sample results notification requirements when applicable: The department will report all sampling results to the owner of the Property, and occupants as appropriate, within 10 business days of receiving the sample results. Optional: When soil, water, sediment, or vapor samples are collected on the Property described above, split samples will be provided to the owner if the Property if the

owner of the Property requests split samples and provides sample containers before the samples are collected.

Property owner certifications

Please mark the box to indicate that you understand and agree to the following information.

- As the owner of the Property, I, **name**, hereby agree not to damage or interfere with soil sampling and management activities, systems, etc. / the use of any monitoring well that is installed as permitted herein and I agree to notify third parties who plan to conduct any activity on the property described above that the excavated soil will remain on the property until managed in a manner appropriate with its characterization / monitoring wells have been installed on the property. I understand that I am responsible for any damage to monitoring wells if I cause that damage.

- As the owner of the Property, I, **name**, understand that the department, in the course of conducting investigation and/or response actions, may find that a hazardous substance discharge or environmental pollution exists on the Property. If this occurs, these findings must be reported to the department per Wis. Stat. § 292.11(2).

- Select one of the following options for the third checkbox and delete the other two:**
OPTION FOR SOURCE PROPERTY: If the department discovers a hazardous substance discharge or environmental pollution on the Property, any current owner of this Property, along with any identifiable causer of the contamination, may be required to take additional response actions pursuant to Wis. Stat. § 292.11(3).
OPTION FOR OFF-SITE PROPERTY: If the department discovers a hazardous substance discharge or environmental pollution on the Property, any current owner of this property, along with any identifiable causer of the contamination, may be required to take additional response actions pursuant to Wis. Stat. § 292.11(3), with the exception of any current owner of the Property that is exempt under Wis. Stat. § 292.13.
OPTION FOR EXEMPT LGU PROPERTY: If the department discovers a hazardous substance discharge or environmental pollution on the Property, any current owner of this Property, along with any identifiable causer of the contamination, may be required to take additional response actions pursuant to Wis. Stat. § 292.11(3), with the exception of any local government unit that owns the Property and is exempt under Wis. Stat. § 292.11(9)(e).

Optional section:
Entry notification

Insert entry notification requirements here, if applicable. [For example: The department and/or the department's contractor shall notify the owner of the Property by telephone or email of any planned activity on the Property at least 48 hours in advance of entering the Property.]

IN WITNESS WHEREOF:

Signature of Property Owner or Authorized Representative

Date

Mailing Address

Area Code and Telephone Number

Email Address

Phone Number

Contact information for occupants, tenants, or lessees (if different than owner):

Name of Occupant

Area Code and Telephone Number

Email Address