



Remediation and Redevelopment Program Issues & Trends 2015

September 2, 2015
12:00 – 1:00 p.m.

Dial: 1-855-947-8255
Passcode: 6612 745#

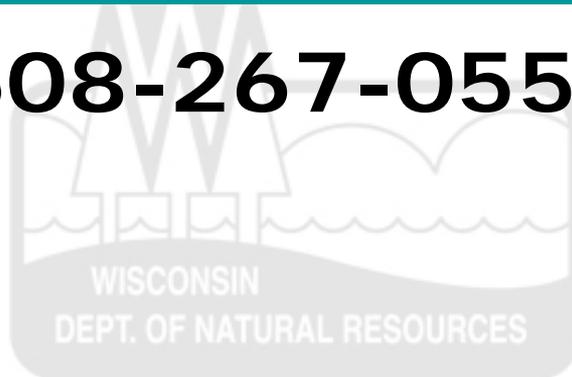
**Questions will be taken during the presentation or
can be submitted to DNRRRComments@wisconsin.gov**

Continuing Obligations: Pre- and Post-Closure

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Overview

- Continuing Obligations (COs) considerations at:
 - Site Investigation
 - Remedy Selection & Remedial Action Implementation
 - Closure
 - Post-Closure Modifications
 - Reopening Closed Cases



COs: Site Investigation

- During the site investigation: the extent of contamination determines who is notified about residual contamination and continuing obligations
 - Affected property owners, including source property owner
 - Affected ROW holders
 - Occupants, as appropriate
 - that may be held responsible for operation/maintenance of a system/control



COs: Remedy Selection and Implementation

- During remedy selection, consider
 - which COs might be needed if the cleanup is incomplete
 - the long-term implications of the continuing obligation, and determine if additional remedial action might be a better alternative
 - Current land use (if possible, expected or planned)
- Whenever possible, aim for the least restricted post-closure use in selecting and implementing the remedy



COs: Before Requesting Closure

- Notify the following about the remaining contamination and the potential COs:
 - affected property owners, including source property owner
 - occupants as appropriate, and
 - ROW holders
- Explain the maintenance and operation requirements to all affected parties



COs: Closure

- Identify any/all potential COs
 - *Select applicable COs from the list on p. 5 of closure form*
 - *Document notifications and identify which party has which CO on p. 10 of closure form*

5. Continuing Obligations: Situations where sites, including all affected properties and rights-of-way (ROWs), are included on the DNR's GIS Registry. In certain situations, maintenance plans are also required, and must be included in Attachment D.

Directions: For each of the 3 property types below, check all situations that apply to this closure request.

(NOTE: Monitoring wells to be transferred to another site are addressed in Attachment E.)

This situation applies to the following property or Right of Way (ROW):			Case Closure Situation - Continuing Obligation Inclusion on the GIS Registry is Required (ii. - xiv.)	Maintenance Plan Required	
Property Type:					
Source Property	Affected Property (Off-Source)	ROW			
i.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None of the following situations apply to this case closure request.	NA
ii.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Residual groundwater contamination exceeds ch. NR 140 ESs.	NA
iii.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Residual soil contamination exceeds ch. NR 720 RCLs.	NA
iv.				Monitoring Wells Remain:	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	• Not Abandoned (filled and sealed)	NA
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	• Continued Monitoring (requested or required)	Yes
v.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Cover/Barrier/Engineered Cover or Control for (soil) direct contact pathways (includes vapor barriers)	Yes
vi.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Cover/Barrier/Engineered Cover or Control for (soil) groundwater infiltration pathway	Yes
vii.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Structural Impediment: impedes completion of investigation or remedial action (not as a performance standard cover)	NA
viii.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Residual soil contamination meets NR 720 industrial soil RCLs, land use is classified as industrial	NA
ix.	<input type="checkbox"/>	<input type="checkbox"/>	NA	Vapor Mitigation System (VMS) required due to exceedances of vapor risk screening levels or other health based concern	Yes
x.	<input type="checkbox"/>	<input type="checkbox"/>	NA	Vapor: Dewatering System needed for VMS to work effectively	Yes
xi.	<input type="checkbox"/>	<input type="checkbox"/>	NA	Vapor: Compounds of Concern in use: full vapor assessment could not be completed	NA
xii.	<input type="checkbox"/>	<input type="checkbox"/>	NA	Vapor: Commercial/industrial exposure assumptions used.	NA
xiii.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vapor: Residual volatile contamination poses future risk of vapor intrusion	NA
xiv.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Site-specific situation: (e. g., fencing, methane monitoring, other) (discuss with project manager before submitting the closure request)	Site specific

BRRTS No. _____

Activity (Site) Name _____

Case Closure-GIS Registry

Form 4400-202 (R 3/15)

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Notifications to Owners of Affected Properties (Attachment G)

Press the space bar or click in the box to check a box under "Letter Sent To" or "Reasons Letter Sent" columns.

ID	Address of Affected Property	Parcel ID No.	Date of Receipt of Letter	Type of Property Owner	WTMX	WTMY	Reasons Notification Letter Sent:																
							Residual Groundwater Contamination = or > ES	Residual Soil Contamination Exceeds RCLs	Monitoring Wells: Not Abandoned	Monitoring Wells: Continued Monitoring	Cover/Barrier/Engineered Control	Structural Impediment	Industrial RCLs Met/Applied	Vapor Mitigation System(VMS)	Dewatering System Needed for VMS	Compounds of Concern In Use	Commercial/Industrial Vapor Exposure Assumptions Applied	Residual Volatile Contamination Poses Future Risk of Vapor Intrusion	Site Specification Situation				
A																							
B																							
C																							
D																							





COs: Post-Closure

- Ch. NR 727
 - Identifies when to notify DNR about a change to a site with COs
- Fees are same as for closure, but the process is simpler
 - \$1050+GIS Fee/s



Post-Closure Modifications

- NR 727.07 Notifications Requirements
 - Removal of a building/cover/barrier/etc.
 - Removal of a structural impediment
(with subsequent investigation/response)
 - Change from industrial to non-industrial land use, especially when industrial RCLs were applied for closure



Post-Closure Modifications

- NR 727 Notifications – continued
 - Change in use of a vapor mitigation system
 - Change from non-residential setting to residential, especially where VRSL were based on non-residential exposure assumptions
 - Construction/reconstruction of a building over residual volatile contamination
 - Site-specific conditions where notification was required



Post-Closure Modifications

- PCM Process
 - Notify DNR about plans which affect any CO for a site, per s. NR 727.07 or closure letter. Use form 4400-237.
 - DNR provides comments, notice to proceed
 - Upon completion of work, provide documentation of changes to DNR
 - DNR provides a closure addendum, documenting any changes to COs



Form 4400-237

Technical Assistance, Environmental Liability Clarification or Post-Closure Modification Request

Form 4400-237 (R 6/15)

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Post-Closure Modifications

- Documentation
 - Summary of actions taken
 - Analytical data, disposal information, etc.
 - Updated Location maps
 - Updated Maintenance plans
 - Photographs: dated and labeled
 - Updated deeds/legal descriptions
 - Updated contact information



Post-Closure Modifications

- Upcoming guidances coming out for public comment this year:
 - RR 987: Post-Closure Modifications: Covers and Changes in Property Boundaries (non-reopeners)
 - RR 982: Post-Closure Modifications and Reopening Closed Sites (Post-Closure Actions under ch. NR 727)

DRAFT RR 987

Post Closure Modifications (PCM) (Non-Reopener): Covers and Changes in Property Boundaries

Category	Examples	Fee	BRRTS Action Code (AC), Process and Documentation	
<p>1. Cover continuing obligation remains in effect. No decrease in extent or protectiveness of cover.</p> <p>This does <u>not</u> include modifications that require site regrading</p>	<p>a) replace cover with same material, over the same extent, and no soil removal/disturbance</p> <p>b) replace cover with another, equally or more protective cover (asphalt to concrete), over same extent, and no soil removal/disturbance</p> <p>c) repair/replacement of cover with same material or equally protective material, over the same extent, and soil disturbance but replacement of soil in hole or soil goes to a landfill (utility work)</p>	No fee	AC 191	<i>Post Closure Modification Notification Received without Fee</i> Notification of change: Requestor notifies DNR, submits plan -no fee
			AC 193	<i>Post Closure Modification Initial Approval with Notice to Proceed</i> DNR Project Manager (PM) provides written approval with notice to proceed via email or letter response (email OK for this category only)
			AC 194	<i>Post Closure Modification Final Documentation Received</i> Receipt of photographic documentation and/or updated maintenance plan from Requestor
			AC 101	<i>Continuing Obligation Modification Approved</i> DNR PM provides written approval (email or letter).
			DNR updates GIS PDF with final written approval of completed action, updated photos and/or maintenance plan. PM puts paper copy in case file.	
			AC 100	QAQC of GIS PDF
			AC 105	<i>Continuing Obligation Request Not Approved</i> Date of denial of post-closure modification request
<p>2. Changes to Footprint of Cover No change in type of land use – <i>but the extent of cover changes from that approved at closure</i></p>	<p>a) A site is redeveloped, (commercial to commercial) and some residual contamination is removed, so that the cover is no longer needed over a portion of the site. The rest of the cover remains.</p> <p>b) During redevelopment, a building is placed in an area where a cover was, and now acts as part or all of the cover. The cover footprint is expanded or contracted. There is no other exposure pathway of concern.</p> <p>c) Construction where a cover is replaced with a building and new utility work is associated with the development:</p> <ul style="list-style-type: none"> • inhabited • occupational • storage 	<p>Post closure modification fee: \$1050 and Database fees: \$300 and/or \$350</p>	AC 181	<i>Continuing Obligation Request received with Fee</i> Notification of change: Requestor notifies DNR, submits plan
			AC 193	<i>Post Closure Modification Initial Approval with Notice to Proceed</i> Team Supervisor or Closure Committee approves action; DNR Project Manager provides written approval with notice to proceed
			AC 194	<i>Post Closure Modification Final Documentation Received</i> Receipt of final documentation from Requestor (revised maintenance plan, photos, monitoring well abandonment forms, and cover location maps)
			DNR closure/VPLE committee reviews submittal, Project Manager prepares the closure letter addendum for Team Supervisor signature.	
			AC 101	<i>Continuing Obligation Modification Approved</i> Date of closure letter addendum confirming final approval of action and documentation.
			DNR updates GIS PDF with closure letter addendum, revised maintenance plan, and cover location maps. PM puts paper copy in	



Reopeners

- One of the reopening criteria in NR 727.13 is non-compliance with continuing obligations.
 - First seek a voluntary return to compliance
 - Reopeners still likely to be based more on potential threat to human health, safety, welfare and to the environment
 - Also applies to sites closed before 11/2013
 - * for VPLE/COC sites, call Michael Prager



Audits of Closed Sites

- Audits conducted since 2004:
 - 14% non-compliance overall (mostly covers)
 - 42% non-compliance for vapor conditions
 - 0% compliance on submitting inspection reports
 - Few conduct annual inspections
 - Many Property Owners don't know about the continuing obligations, including original RPs/property owners



SUMMARY

- Consider how to minimize the use of COs whenever possible (remedy selection/remedial action).
- Whenever possible, consider not only the existing, but the expected land use in remedial action decisions, to help limit immediate post-closure modifications.



SUMMARY

- **Protectiveness of COs depends on compliance.**
- Explain to the RP and any affected Parties the responsibility and long-term liability that go with continuing obligations.
- Go over the maintenance plan with each party responsible for O&M.



Contacts

- For questions on continuing obligations or post-closure modifications:
 - Project Manager for site-specific questions
 - For general questions:
 - Judy.Fassbender@wisconsin.gov
 - 608-266-7278
 - Jane.Lemcke@wisconsin.gov
 - 608-267-0554



Issues & Trends 2015

**October 7, 2015
12:00 – 1:00 p.m.**

Operation, Monitoring & Maintenance Performed by RPs for Vapor Mitigation Systems

Audio from today's presentation and information about this and future *Issues & Trends Series* can be found on the RR Program Training Webpage at:
dnr.wi.gov/topic/Brownfields/Training.html

Questions / Comments / Suggestions regarding the
Issues & Trends Series can be submitted to:

DNRRRComments@wisconsin.gov

Thank you