

NR 700 RULE  
UPDATE

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September 25,  
2013

# NR 700 REVISIONS WEBINAR

- 1:00 – 3:00 pm
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# NR 725

## NOTIFICATION REQUIREMENTS FOR RESIDUAL CONTAMINATION AND CONTINUING OBLIGATIONS

Jane Lemcke,  
Standards & Streamlining  
Team Leader

# PURPOSE

- Specify the minimum notification requirements that shall be met before the agency with administrative authority may determine that a specific site or facility may be:
  - closed under ch. NR 726 with a continuing obligation or residual contamination, or
  - to approve a remedial action plan which includes a continuing obligation, and
  - to identify which sites shall be included on a department database.

# APPLICABILITY

- For sites seeking closure under NR 726
- For sites with remedial action plan approval under NR 722 (continuing obligations applied)
- An LGU/EDC where DNR has required the party to take an action under NR 708

# RP IS REQUIRED TO NOTIFY:

- Owner of each affected property
- Occupants of affected properties, as appropriate
- Clerk of county/town/village/city for public street/highway/ROW
- Municipal dept./state agency for public street/highway/ROW
- Railroad that maintains RR ROW

# SITUATIONS REQUIRING NOTIFICATION

- Residual soil, groundwater contamination
- Monitoring wells which will not be properly abandoned (not found, continued monitoring)
- Cover (direct contact, groundwater pathway)
- Structural impediment
- Industrial soil standards applied

# SITUATIONS CONTINUED:

- Sub-slab vapor risk screening levels exceeded, following source removal and remedial action
- Compounds of concern will continue to be used after site closure
- Dewatering system needed in order for a VMS to operate effectively (hydrogeologic control)
- Non-residential vapor inhalation exposure assumptions used for closure
- Residual volatile contamination poses future risk, depending on building construction or land use change

# GENERAL REQUIREMENTS

- Notification letter - use form 4400-286
- Notification method
  - Certified mail, return receipt requested
  - Priority mail with signature confirmation
  - DOT notifications can be email, certified mail, or standard mail
- Fact Sheets - form indicates when to include
  - Natural Attenuation
  - Continuing Obligations
  - Vapor Intrusion



# QUESTIONS?

Questions via Live Meeting "Q & A" feature

or email [Michael.Prager@wisconsin.gov](mailto:Michael.Prager@wisconsin.gov)



# NR 726 CASE CLOSURE

Jane Lemcke,  
Standards & Streamlining  
Team Leader

# PURPOSE

- To specify the minimum requirements and conditions that shall be met before the department may determine that a case related to a discharge of hazardous substances or environmental pollution at a specific site or facility may be closed.

# HEADS UP

- In this chapter, some sections apply to “agency with administrative authority”, i.e. DNR or DATCP
- While other sections only apply to DNR, referred to as the “department”

# GENERAL REQUIREMENTS – 726.05

- Comply with all applicable state and federal rules
  - Provide notification required under NR 725
  - Pay the applicable fees (from NR 749)
- 
- **NEW:** closure request must document that remaining level of contamination is not likely to cause a vapor action level in indoor air to be attained/exceeded.

# GENERAL REQUIREMENTS (CONT.)

- NEW: For vapor intrusion, specific closure criteria were added:
  - Pathway must be investigated (NR 716.11 (5) (g))
  - If vapors were present above the vapor risk screening level:
    - A remedial action has to be conducted, and mass and concentration must be reduced to the extent practicable
    - Vapor exposure pathway must be interrupted or mitigated
    - *i.e. – a source control action is needed*
    - *Vapor mitigation is not a remedial action*

# DATABASE REQUIREMENTS – 726.07

- NEW: the rule clarifies that the closure letter, or other letter that contains continuing obligations, will be included in the database (BRRTS on the Web)

# DOCUMENTATION – 726.09

- NEW: one paper copy, one electronic copy
- Some reformatting of the current requirements
- Clarification: soil performance standard covers not considered active remediation.
  - Certain tables and maps required where soil excavation or active remediation has taken place.
- NEW: minimum sampling rounds changed from 4 to 8 successive quarterly rounds. Alternate schedules may be requested/approved. Based on results of natural attenuation study.
  - Include as a separate table in the closure request.

# DOCUMENTATION – 726.09

## ■ Notifications:

- Still need to include a copy and proof of the date on which they are received, but they will no longer be included in the PDF.
- Instead, form 4400-246, *Impacted Property Notification Information* will replace the copies of notifications sent.

# DATABASE DOCUMENTATION REQUIREMENTS – 726.11

- Most current requirements just reorganized
- Paper copies now no larger than 11 x 17 inches
- Electronic:
  - Resolution of 300 dots per inch
  - Not locked, or password protected
  - Original, if possible – deeds, legal descriptions may be scanned

# MAINTENANCE PLANS – 726.11(2)

- Maintenance plans are required for certain continuing obligations
- Need to include:
  - Location map
  - Description of type, depth and location of residual contamination
  - Description of maintenance actions
  - Inspection log
  - Contact information

Inspection log submittal requirements will be in the closure letter/other approval letter

# PHOTOGRAPHS – 726.11(3)

- Used to document certain features at time of closure submittal
- Also very helpful in maintenance plans to show baseline conditions, or how something should look
- Include title related to site name and location, and date taken

# DEED AND PARCEL INFORMATION – NR 726.11 (4)

- If a CSM or plat map is not legible or available, you may substitute a copy of the parcel map from the county land information office.
  - Identify the parcels from the legal description on the parcel map with the applicable parcel identification numbers.

# ISOCONCENTRATION MAP

## NR 726.11 (5) d. 2.

- If an isoconcentration map was NOT required under NR 716, include with the closure request
  - a map showing the horizontal extent of contamination exceeding applicable standards based on
    - the most recent data; or
    - where standards have not been promulgated, the horizontal extent of contamination remaining after the remedial action.

# MONITORING WELL ABANDONMENT

## NR 726.11(7)

- Need to make a good faith effort to locate all remaining monitoring wells, and document that effort.
- If wells cannot be located for abandonment, provide:
  - Site location map with surveyed well locations
  - Well construction reports
  - Deed with legal description for the applicable properties

# AUTHORITY AND APPROVAL FOR CASE CLOSURE

## NR 726.13

- New: agency may not close a case if a vapor action level in indoor air is likely to be attained or exceeded by the remaining level of contamination
- New: agency may extend the 30 day time period for notification letters, if requested.
- New: closure letters to be included in the database – See “Documents” section
- DNR to provide written notice of a closure request response to the owners of any property receiving an NR 725 notification

# CLOSURE LETTERS AND CONTINUING OBLIGATIONS – NR 726.15

- This section is reformatted, to cover what's included in the closure approval letter
- New:
  - require that the property owner shall inform any purchaser of the property about the continuing obligations identified in the closure letter that apply to the property.
  - The closure letter may also require the property owner to notify affected occupants of the need for specific continuing obligations.
  - specifies the different vapor situations, and the continuing obligation for each

# CONTINUING OBLIGATIONS (CONT.)

- New: Vapor-related conditions
  - Vapor mitigation systems where sub-slab levels exceeded a vapor risk screening level
  - Vapor mitigation systems where compounds of concern are still in use
  - Vapor mitigations systems with dewatering systems
  - Site-specific exposure conditions – limiting property use or occupancy to non-residential
  - Potential for future exposure to vapors – requires vapor control technologies for future building, or an assessment showing that residual contaminant levels are protective of the new use



# QUESTIONS?

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or email [Michael.Prager@wisconsin.gov](mailto:Michael.Prager@wisconsin.gov)



# NR 727

## CONTINUING OBLIGATION REQUIREMENTS AND REOPENING CLOSED CASES

Jane Lemcke,  
Standards & Streamlining  
Team Leader

# PURPOSE

- specify the minimum responsibilities of RPs/owners/occupants of properties with residual contamination, where continuing obligations have been imposed
  - in a closure approval letter or
  - in a remedial action plan approval, or
  - for local government units where continuing obligations have been imposed by the department under ch. NR 708;
- specify the process for updating closure conditions, continuing obligations and information included in the department database; and
- specify the criteria for reopening a closed case.

# POST-CLOSURE RESPONSIBILITIES

- Owner/occupant is responsible for compliance with any CO imposed
- Operate/maintain the CO, inspect and document
- Submit inspection log on DNR form, if required
- Conduct long-term monitoring
- Allow reasonable access for agency inspection
- Manage residual contamination in compliance with state/federal law
- Notify purchasers of continuing obligations
- Property owners are to include compliance with CO in any lease agreements

# CONTINUING OBLIGATION NOTIFICATIONS

- Notify the DNR/DATCP 45 days before taking an action at a site with one of these COs:
  - Removal of a cover, barrier, engineered containment structure, or a structural impediment
  - Change in land use from industrial to non-industrial
  - Change in use of a vapor mitigation system

# CO RESPONSIBILITIES (CONT.)

- Change in land use from non-residential setting to residential setting
  - “any dwelling designed or used for human habitation, and includes educational, childcare, and elder care facilities”
- Construction of a building over residual volatile contamination
- Other, including changes in use or occupancy of a building

# UPDATING BRRTS/GIS REGISTRY

- DNR may require additional response actions be taken at sites with continuing obligations, if COs have not been maintained. Additional information may be required to be submitted.
- Updating Deed Restrictions:
  - updated by filing a deed notice once the condition has been satisfied, and are no longer required
  - Also applies to groundwater use restrictions, once groundwater quality improves

# UPDATING BRRTS/GIS REGISTRY (CONT.)

- Parties may request removal from the GIS Registry, or modification of information on the GIS Registry once:
  - Groundwater concentrations below ES
  - Soil concentrations below NR 720 soil standards
  - Other COs satisfied or nullified

# DEED NOTICE PROCESS: MODIFICATION OR REMOVAL FROM GIS REGISTRY

- Draft deed notice submitted to agency, with
- Fee (review and/or database processing)
- Department review, provides a written determination to be attached
- Property owner/other records the deed notice with written determination at County Register of Deeds office, within 90 days after the agency specifies that a deed notice is required

# REOPENING CLOSED CASES

- DNR may reopen a case (require additional response action) if:
  - Information indicates there's a threat to public health, safety, welfare or the environment, or
  - (new) A Property owner fails to comply with a condition of closure/COC/deed restriction or continuing obligation

New – RP/Property owner, or affected property owner, may request reopening of a closed case, or they may conduct additional remedial actions.



# QUESTIONS?

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# NR 700 REVISIONS

- Next Webinar: Wednesday, October 2, 2013
- 1:00 – 3:00 pm
- Chapters: 706, 712, 716
- Presenters: Roxanne Chronert / Jane Lemcke / Mark Gordon
- Presentations available at <http://dnr.wi.gov/topic/brownfields/training.html>
- Questions after today can be emailed to [DNRRRComments@wisconsin.gov](mailto:DNRRRComments@wisconsin.gov)