

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
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Fitchburg WI 53711-5397

Tony Evers, Governor
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February 13, 2019

Jeremy Williams, Director of Public Works
City of Darlington
627 Main Street
Darlington WI 53530

Subject: Reported Contamination at Darlington City Historic Landfill, 149 Wells Street, Darlington
DNR BRRTS Activity # 02-33-582970
DNR FID # 133028170

Dear Mr. Williams:

For over ten years, the City of Darlington (City) has been monitoring and safely venting methane generated at its historic landfill at 149 Wells Street. Up to this point, the Department of Natural Resources (Department) has kept documents for the landfill and the Dick's Supermarket (now Piggly Wiggly) shopping plaza in a joint file under the BRRTS # 02-33-544202. This BRRTS number will now apply only to the Dick's Supermarket (now Piggly Wiggly) shopping plaza. The former drycleaner in the plaza was handled separately under BRRTS # 02-33-526621.

The Department is now administratively separating the Dick's Supermarket shopping plaza site from the underlying historic Darlington landfill. All future documents related to the landfill should use BRRTS # 02-33-582970; the BRRTS name for the landfill is Darlington City Historic Landfill.

On March 1, 2004, the Department received an investigation report from Alpha Terra Science, on behalf of Hewitt Point Acquisitions LLC. The report indicated that hazardous substances were detected in refuse, soil, and groundwater and that methane gas was found at the site described above.

Information submitted to the Department regarding this site indicates you are responsible for the discharge of a hazardous substance or other environmental pollution (hereafter referred to as "contamination") at the above-described site. "Site" refers to the property where the contamination occurred and any other property it has migrated to, as defined in Wisconsin Administrative Code ("Wis. Admin. Code") § NR 700.03(56).

This letter explains how to initiate the investigation and cleanup of contamination of the site, and how to access further information and assistance from the Department. The longer contamination remains 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.

Legal Responsibilities:

Persons meeting the definition of "responsible party" under Wis. Admin. Code § NR 700.03(51) must follow applicable law to address the discharge of a hazardous substance to the environment or other environmental pollution. Wisconsin Statutes ("Wis. Stats.") ch. 292 and Wis. Admin. Code chs. NR 700 through NR 754 provide specific requirements for undertaking appropriate response actions to address contamination, including

requirements for emergency and interim actions, public information, site investigations, remedy selection, design and operation of remedial action systems, and case closure.

General Recommendations for Responsible Parties:

The Department recommends that you:

1. Hire a Qualified Environmental Consultant

Hiring a consulting firm with staff that have the appropriate State of Wisconsin qualifications to supervise and certify the submittals is a critical component and necessary to meet your requirements. Further, an environmental consultant should be knowledgeable of Wisconsin's technical procedures and laws and be able to answer questions regarding cleanup requirements. Required qualifications for environmental consultants are specified in Wis. Admin. Code ch. NR 712. Program guidance is available, see *Wis. Admin. Code ch. NR 712 Qualifications and Certifications, RR-081 (copy enclosed)*.

2. Properly Submit Reports on Time with Required Information Included

Wisconsin law includes timeframes for submitting technical documents and conducting work, as well as specifications for what should be included in those submittals. This letter provides a general overview of the timeframes and first steps to take for site investigation and cleanup. For an overview of timing requirements, please refer to *NR 700 Process and Timeline Overview, publication number RR-967*.

The Department developed an electronic submittal portal on the DNR website to assist responsible parties and consultants in properly submitting documents. The submittal portal is found at <https://dnr.wi.gov/topic/brownfields/submittal.html>. Wis. Admin. Code § NR 700.11(3g), and other specific provisions within Wis. Admin. Code ch. NR 700, outline the requirements for submittals, including electronic submittals. Consultants and representatives of responsible parties are required to submit one paper copy and one electronic copy of submittals, including case closure documents. The electronic version must be an exact duplicate of the paper version. Failure to submit both a paper copy and electronic copy delays acceptance of your submittals.

3. Consider the Benefits of a Fee-based Technical Review of your Submittals

In-depth review of technical reports and submittals is available for a fee. The Remediation and Redevelopment (RR) Program project managers are available throughout the process to answer general questions and provide general input as the site moves toward closure. However, if you want a formal written response from the Department, a meeting or both on a specific submittal, a review fee will be required in accordance with Wis. Admin. Code ch. NR 749. **Obtaining technical assistance from Department project managers throughout the process is an effective way to prevent problems and delays at the end of the process when case closure is requested.** Forms, a fee schedule, and further information on technical assistance is available at dnr.wi.gov and searching "brownfield fees".

Required Steps to Take and Documents to Submit:

The steps listed below serve as a general overview only — all mandatory steps and submittals specified in state law must be met before the Department can grant "case closure", which is a determination by the Department that no further cleanup is necessary at a site, as defined in Wis. Admin. Code § NR 700.03(3m).

The landfill property has already been partly investigated, and the City is not currently conducting additional investigation. The City is required to continue conducting methane monitoring twice per year and maintaining methane alarms in buildings constructed on top of the historic landfill. The actions below that are currently applicable are items 3, 6, 7, and 8. If conditions change or the City wishes to work toward "case closure," then the Department will work with you to ensure that all applicable requirements are met.

1. **Scoping and Work Plan Submittal – NR 716.07 and 716.09**: The law requires that you appropriately scope out your site investigation and submit a work plan within **60 days of this notification** for completing a site investigation. The work plan must comply with the requirements in Wis. Admin. Code, chs. NR 700 through NR 754. For additional assistance, the Department has extensive guidance on its web page at dnr.wi.gov and search “brownfield publications”.

Prior to and during a site investigation, you must evaluate whether any interim actions are needed to contain or stabilize a hazardous substance discharge or environmental pollution, pursuant to Wis. Admin. Code § NR 708.11. If you undertake an interim action (e.g., free product removal), you must submit documentation of the action per Wis. Admin. Code § NR 708.15.

As you develop the site investigation work plan, you must include an assessment of the vapor intrusion pathway. Wis. Admin. Code § NR 716.11(5) outlines the requirements for when to evaluate for the presence of vapors in the sub-surface and in indoor air. The results and conclusions from the vapor assessment must be included in the Wis. Admin. Code § NR 716.15 site investigation report whether or not you elected to take vapor samples. *Addressing Vapor Intrusion at Remediation & Redevelopment Sites in Wisconsin, RR-800*, is available to help responsible parties and their consultants comply with these requirements.

2. **Field Investigation – NR 716.11**: Following submission of the work plan, the site investigation must be started within the timeframe provided under law. The timeframe varies depending on whether you are requesting the Department’s fee-based review of the work plan. If you do not request a fee-based review of the work plan, you must initiate the field investigation within 90 days of submitting the work plan, and you may proceed with the field investigation upon Department notification to proceed; however, if the Department has not responded within 30 days, from submittal of the work plan, you may then proceed with the field investigation. If a fee and request for Department review of the work plan is submitted, the field investigation must begin within 60 days after receiving Department approval.
3. **Sample Results Notification Requirements – NR 716.14**: You must report sampling results to the Department, owners, occupants, and various other parties within 10 business days after receiving the sampling results, unless a different timeframe is approved by the Department, in accordance with Wis. Admin. Code § NR 716.14.
4. **Site Investigation Report – NR 716.15**: Within 60 days after completion of the field investigation and receipt of the laboratory data, the law requires you to submit a Site Investigation Report (SIR) to the Department. As part of the SIR or in the Remedial Actions Options Report (RAOR), if there is soil contamination, the responsible party shall identify the current land use (i.e., industrial or non-industrial) and zoning for the site or facility in accordance with Wis. Admin. Code § NR 720.05(5). Also, as part of the SIR or in the RAOR, you must include any interim action report that may be required under Wis. Admin. Code § NR 708.15.
5. **Remedial Actions Options Report – NR 722**: Within 60 days after submitting the SIR, the law requires you to submit a RAOR. The selected remedy in the RAOR should include an evaluation of green and sustainable remediation criteria, as appropriate, as required by Wis. Admin. Code § NR 722.09(2m). This may be submitted as part of a broader SIR.
6. **Remedial and Interim Action Design, Implementation, Operation, Maintenance and Monitoring Reports – NR 724**: Unless otherwise directed by the Department, the responsible party shall submit all plans and reports required in Wis. Admin. Code ch. NR 724.

7. **Notification of Residual Contamination or Continuing Obligations – NR 725:** In situations where notification is required, the responsible party must provide submittal(s) that confirms that continuing obligations have been identified and affected property owners have been notified by the responsible parties 30 days prior to case closure, as required by Wis. Admin. Code ch. NR 725.
8. **Semi-annual Reporting -- NR 700.11:** Wis. Admin. Code § NR 700.11(1)(a) requires responsible parties to submit semi-annual site progress reports to the Department until final case closure is granted. The reports summarize the work completed over six months and additional work planned to adequately complete the response action at the site. Consultants may submit these reports on behalf of responsible parties. These reports are due in January and July of each year. Please refer to Department publication *NR 700 Semi-Annual Site Progress Report, RR-082*, for more information.

Submittals required under Wis. Admin. Code chs. NR 700 - 726

These documents, as applicable, must be submitted to the Department prior to the responsible party requesting case closure, unless otherwise directed by the Department:

- Ch. NR 708 reports and documentation for any immediate or interim actions.
- Ch. NR 712 professional certifications and signatures are included with applicable submittals.
- Ch. NR 716 work plan(s) and site investigation report.
- Ch. NR 722 remedial action options report (exception is for Dry Cleaners Environmental Response Fund sites), with the selected remedial action identified.
- Ch. NR 724 design, construction documentation, operation, maintenance and monitoring plans and reports, including vapor mitigation commissioning.
- Ch. NR 725 submittal(s) that confirms that continuing obligations have been identified and affected property owners have been notified by the responsible parties 30 days prior to case closure.
- If requesting case closure, the Ch. NR 726 case closure form and documentation substantiating compliance with the NR 700 rule series.
- Ch. NR 749 fees have been paid, as applicable, including closure and database fees.
- Ch. NR 700 semi-annual site progress reports starting six months after notification.

Additional Information:

The Department tracks information on all cleanup sites in a Department database available at dnr.wi.gov and search "BOTW". The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this site is listed at the top of this letter. You may view information related to your site on this database at any time.

All correspondence regarding this site should be directed to me at this address:

Cindy Koepke
 Remediation and Redevelopment Program
 Wisconsin Department of Natural Resources
 3911 Fish Hatchery Road
 Fitchburg WI 53711

As previously noted, you are required to submit one paper copy and one electronic copy of plans and reports. To speed up processing, your correspondence should reference the BRRTS and Facility Identification (FID) numbers listed at the top of this letter.

Please visit the Department's Remediation and Redevelopment Program website at dnr.wi.gov and search "Brownfields", for information on selecting a consultant, seeking financial assistance, and understanding the investigation and cleanup process. Information regarding review fees, liability clarification letters, post-cleanup liability and more is also available.

If you have questions, please contact me at 608-275-3257 or cynthia.koepke@wisconsin.gov.

Thank you for your cooperation.

Sincerely,



Cynthia L. Koepke, P.G.
Remediation & Redevelopment Hydrogeologist
South Central Region

Enclosures:

NR 700 Semi-Annual Site Progress Report, RR-082
Wis. Admin. Code ch. NR 712 Qualifications and Certifications, RR-081

cc: Erin Gross, Ayers Associates (via email)



Remediation and Redevelopment Program July 2017

**NR 700 Semi-Annual Site Progress Report
Wis. Admin. Code § NR 700.11 (1)(a)**

Wis. Admin. Code § NR 700.11(1)(a) requires responsible parties (RPs) to submit semi-annual site progress reports to the Department of Natural Resources (DNR) until final case closure is granted by the DNR. The reports summarize the completed work and additional work planned to adequately complete the response action at the site or facility. Consultants may submit these reports on behalf of RPs.

Semi-annual reports *are required* of persons who meet the definition of responsible party in NR 700. Therefore, property owners, such as local governments that have an exemption under Wis. Stats. §§ 292.11(9)(e) or 292.23 and lenders that have an exemption under Wis. Stats. § 292.21 for specific properties are not required to submit a semi-annual report under state law for those exempt properties.

Semi-annual reporting is required of RPs for all “open” sites in the BRRTS database, including those sites the DNR formerly classified as “conditionally closed.” Sites formerly classified by the DNR as “conditionally closed” are sites that have not been granted case closure and, by definition, have remaining action(s) needed (e.g. remove investigative waste; properly abandoning monitoring wells). Semi-annual reporting for these otherwise open sites should indicate what steps are being taken to complete the remaining actions needed.

This semi-annual reporting requirement replaces PECFA annual web reporting. Consultants and responsible parties were previously required to inform the agency of the progress and the estimated cost of work remaining for PECFA-eligible sites. Now, submission of the semi-annual online form satisfies PECFA’s requirement to report progress. A separate PECFA web report is not required.

Reporting periods are from January 1 to June 30 and July 1 to December 31 each year. Following the conclusion of each reporting period, the DNR will send an email with a unique report identification number to all consultants and responsible parties for open sites in BRRTS. The Report ID number uniquely identifies the activity and reporting period for which an RP is reporting, and verifies that the person using the ID is authorized to submit the report. If an email is not received, a report identification number can be requested by submitting the Report ID Request Form.

Reports are due no later than 30 days from the end of the reporting period.

Schedule for NR 700 Semi-Annual Reporting

Annual reporting periods	Report due date
January 1 to June 30	July 30
July 1 to December 31	January 30

If you have questions about the reporting process or requirements, please contact Tim Zeichert at 608-266-5788 or via email at Timothy.Zeichert@wisconsin.gov.



Wis. Admin. Code ch. NR 712 Qualifications and Certifications

Introduction

This fact sheet is for use by persons who hire and those that provide services associated with conducting certain environmental response actions in Wisconsin. It identifies the necessary professional qualifications and certifications for performing and supervising work, and the requirement for signing and certifying specific submittals for actions conducted under Wis. Stat. ch. 292 and Wis. Admin. Code chs. NR 700-754. This document does not describe the personnel qualifications required by Wis. Admin. Code for sampling, fieldwork and the development of plans for field activities for response actions.

Wis. Admin. Code § NR 712.03: Definitions

Wis. Admin. Code ch. NR 712 establishes minimum standards for experience and professional qualifications for persons who perform and provide certain services or scientific evaluations associated with specific environmental response actions.

(1) “Hydrogeologist” means a person who is licensed as a hydrologist or registered as a geologist with the department of safety and professional services, and is a graduate of an accredited institution of higher education and who has successfully completed 30 semester hours or 45 quarter hours of course work in geology. At least 6 semester hours or 9 quarter hours of the geology course work shall be hydrogeology, geohydrology or groundwater geology. This person shall also have acquired, through education and field experience, the ability to direct the drilling of borings and the installation and development of wells, describe and classify geologic samples, and evaluate and interpret geologic and hydrogeologic data.

Note: The term registered geologist means a Professional Geologist that has been licensed in accordance with the provisions in ch. GHSS 2, Wis. Adm. Code and the term licensed hydrologist means a Professional Hydrologist that has been licensed in accordance with the provisions in ch. GHSS 3, Wis. Adm. Code.

(2) “Professional engineer” means an engineer registered with the department of safety and professional services.

(3) “Scientist” means a person who is a graduate of an accredited institution of higher education and who has successfully completed the necessary credit hours to receive a degree in a field of scientific expertise applicable to environmental response actions, including, but not limited to, geology, chemistry, agronomy, crops and soils, soil science, toxicology and biology.

(4) “Supervised field experience” means experience collecting samples of air, soil, water or other media completed with guidance from, and oversight by, a person who meets the requirements of s. NR 712.05(2).

(5) “Supervision” means personal, active oversight and control of the preparation of submittals.

Wisconsin Department of Safety and Professional Services Licensing Information

For information on the licensing of professionals in Wisconsin, visit: <https://app.wi.gov/licensesearch>.

Wis. Admin. Code §§ NR 712.07, NR 712.09: Requirements for Submittal Preparation and Certification

All phases of work necessary to obtain data, develop conclusions and recommendations and prepare submittals shall be conducted or supervised by persons possessing the qualifications required in Wis. Admin. Code, as summarized in the table below. In addition, there are requirements specified under Wis. Admin. Code § NR 712.05 for persons conducting sampling, fieldwork, and the development of plans for conducting field activities.

When submitting documents to DNR, the submittal titles listed in the table should be used, including the rule reference. This will help speed up the review process.

Who must supervise work and certify the submittal?				
Submittal	Professional Engineer (PE)	Hydrogeologist	Professional Engineer and Hydrogeologist	PE, Hydrogeologist or Scientist
Phase I and Phase II Environ. Site Assessment ¹		With GW ²		Without GW
Wis. Adm. Code § NR 708.11 (4) Interim Action	Without GW		With GW	
Wis. Adm. Code § NR 708.13 Free Product Removal			With GW	
Wis. Adm. Code ch. NR 716 Site Investigation Submittals		With GW		Without GW
Wis. Adm. Code § NR 718.12(1) Immediate Action	Wis. Adm. Code § NR 712.05(2) sampling and fieldwork requirements apply ³			
Wis. Adm. Code § NR 718.12 (1) and (2) (Interim or Remedial Action)	Without GW		With GW	
Wis. Adm. Code ch. NR 720 Submittals		With GW		Without GW
Wis. Adm. Code ch. NR 722 Remedial Action Options report	Without GW		With GW	
Wis. Adm. Code ch. NR 724 Submittals	Without GW		With GW	
Wis. Adm. Code ch. NR 726 Closure Request	Without GW		With GW	
Wis. Adm. Code ch. NR 727 Request to Modify Continuing Obligations	Without GW		With GW	

Wis. Admin. Code § NR 712.09: Certifications

¹ Wis. Admin. Code ch. 712 does not apply to Phase I and II reports/actions unless work is done or will be used to satisfy Wis. Admin. Code §§ NR 708.11(4) (i.e. interim action that triggers NR 724), 708.13, 716-754 or to obtain a certificate of completion under the Voluntary Park Liability Exemption program as defined in Wis. Stat. § 292.15 and NR 750.

² GW = groundwater. NOTE: "With GW" means the report includes an investigation or evaluation of groundwater conditions, or groundwater related conclusions or recommendations.

³ Submittals documenting actions taken pursuant to Wis. Admin. Code § NR 718.12(1) are exempt from Wis. Admin. Code ch. NR 712 requirements but are not exempt from the requirements specified in Wis. Admin. Code § NR 712.05(2).

The appropriate certification statement listed below shall be attached to any submittal to the DNR that is required to be prepared by, or under the supervision of, a professional engineer, a hydrogeologist or a scientist to demonstrate that the requirements of Wis. Admin. Code ch. NR 712 have been met. The responsibility for signing the certification may not be delegated per Wis. Admin. Code § 712.09(1). Per Wis. Admin. Code § 712.05(1), the work must be conducted or supervised by the person certifying. The certification statement must match the code per Wis. Admin. Code § 712.09 (3) a thru c as listed below.

Professional Engineer

The following certification shall be attached to any submittal that is required to be prepared by, or under the supervision of, a professional engineer under s. NR 712.07 (2), (3) or (5):

"I, _____, hereby certify that I am a registered professional engineer in the State of Wisconsin, registered in accordance with the requirements of ch. A-E 4, Wis. Adm. Code; that this document has been prepared in accordance with the Rules of Professional Conduct in ch. A-E 8, Wis. Adm. Code; and that, to the best of my knowledge, all information contained in this document is correct and the document was prepared in compliance with all applicable requirements in chs. NR 700 to 726, Wis. Adm. Code."

Signature, title and P.E. number

P.E. stamp

Hydrogeologist

"I, _____, hereby certify that I am a hydrogeologist as that term is defined in s. NR 712.03 (1), Wis. Adm. Code, am registered in accordance with the requirements of ch. GHSS 2, Wis. Adm. Code, or licensed in accordance with the requirements of ch. GHSS 3, Wis. Adm. Code, and that, to the best of my knowledge, all of the information contained in this document is correct and the document was prepared in compliance with all applicable requirements in chs. NR 700 to 726, Wis. Adm. Code."

Signature and title

Date

Scientist

"I, _____, hereby certify that I am a scientist as that term is defined in s. NR 712.03 (3), Wis. Adm. Code, and that, to the best of my knowledge, all of the information contained in this document is correct and the document was prepared in compliance with all applicable requirements in chs. NR 700 to 726, Wis. Adm. Code."

Signature and title

Date

