



March 20, 2024

Ms. Leslie Dixon
327 E. Reservoir Condominium Association, Inc.
327 E. Reservoir Avenue
Milwaukee, WI 53212
Email only to lhdixon4@gmail.com

Subject: Reported Contamination at Barrel Plating Services Fmr
325-327 E. Reservoir Avenue, Milwaukee, WI
BRRTS #02-41-594249, DNR FID #341369710

Dear Ms. Dixon:

In 1994, the Milwaukee Metropolitan Sewerage District (MMSD) notified the Wisconsin Department of Natural Resources (DNR) that a hazardous substance discharge was discovered at the site described above during an investigation of the sewer system. In a letter dated January 10, 1994, Barrel Plating Services, Inc., the property owner at the time, was identified as the party responsible of the investigation and cleanup of the contamination. In 1999, the facility shut down and Cornerstone Property Development LLC took ownership of the 325-327 E. Reservoir Avenue property. You have been identified as the current property owner.

Information provided to the DNR regarding this site indicates you are responsible for the discharge of a hazardous substance (hereafter referred to as "contamination") at the 325-327 E. Reservoir Avenue 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). Contamination that is shown to have originated on the property identified as 301 E. Reservoir Avenue, which was also part of the Barrel Plating Services facility and was previously the facility's overall address, is a separate site with a separate responsible party. This letter applies only to contamination that originated at the 325-327 E. Reservoir Avenue property.

Historical information in the case file for BRRTS #02-41-000904 (now the 301 E. Reservoir Avenue site) indicates that contamination at the 325-327 E. Reservoir Avenue property was previously investigated on behalf of Cornerstone Property Development, LLC from 1998 to 2000. In late 2000, remedial activities were conducted on the west side of this property, which was redeveloped with a tennis court for the new townhome built on the east side of the property. Approximately 700 tons of characteristically hazardous soil was treated, excavated and disposed, and approximately 1,200 tons of non-hazardous contaminated soil was excavated and disposed at a landfill. Confirmation soil samples collected after soil removal indicated that high contaminant concentrations remain in soil on-site. The main contaminants of concern at this site are Resource Conservation and Recovery Act (RCRA) metals and volatile organic compounds, especially trichloroethylene. Contamination in soil and groundwater has not yet been defined laterally and vertically and no vapor investigation has been conducted.

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 DNR. 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 to investigate and clean up the contamination.

Legal Responsibilities

Persons meeting the definition of “responsible party” under Wis. Admin. Code § NR 700.03 (51) must follow applicable laws to address the discharge of a hazardous substance to the environment or other environmental pollution. Wisconsin Statute (“Wis. Stat.”) ch. 292 and Wis. Admin. Code chs. NR 700-799 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.

Special Vapor Intrusion Concern with Trichloroethylene

Contamination that includes trichloroethylene (“TCE”), a chlorinated solvent and common degreaser, is of special concern from a human health perspective due to its potential for acute (short-term) health risks at relatively low concentrations in air. TCE is also a breakdown product of tetrachloroethylene (“PCE,” also known as “Perc”), a historically common dry-cleaning chemical. Vapors can travel from contaminated soil or groundwater and along preferential pathways, such as within sewer lines, and enter occupied buildings. This is known as vapor intrusion (VI). Screening for VI must be conducted at every contaminated site in Wisconsin, as defined in Wis. Admin. Code § 716.11 (5) (a). **However, when TCE is present, screening for VI should be made a priority and an interim action under Wis. Admin. Code § NR 708.11 may be necessary.** For an overview on VI, see *What is Vapor Intrusion?* (RR-892). For more information, go to dnr.wi.gov and search “vapor.” Additional technical guidance on VI is available in *Addressing Vapor Intrusion at Remediation & Redevelopment Sites in Wisconsin*, (RR-800).

General Recommendations for Responsible Parties

The DNR recommends that you:

1. Hire a Qualified Environmental Consultant

To ensure response actions you plan to undertake comply with Wisconsin law, you should hire an environmental consultant within **30 days**, by April 22, 2024, to meet the regulatory deadlines listed below. A delay in hiring an environmental consultant could result in you missing key submittal deadlines.

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. See *Wis. Admin. Code ch. NR 712 Qualifications and Certifications* (RR-081), for more information.

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* (RR-967), *enclosed*.

The DNR developed the publication *Guidance for Electronic Submittals for the Remediation and Redevelopment Program* (RR-690), to assist responsible parties and consultants in properly submitting documents. 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.

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

In-depth DNR 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 case closure. However, if you want a formal, written response from the DNR, a meeting with the DNR 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 DNR 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 by 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 Wis. Admin. Code, chs. NR 700-799 must be met before the DNR can grant case closure, which is a determination by the DNR that no further cleanup is necessary at a site, as defined in Wis. Admin. Code § NR 700.03 (3m).

1. **Scoping and Work Plan Submittal – NR 716.07 and 716.09:** The law requires that you appropriately scope your site investigation and submit a work plan within **60 days of this notification**, by May 21, 2024, for completing a site investigation. The work plan must comply with the requirements in Wis. Admin. Code, chs. NR 700-799. For additional assistance, the DNR has extensive guidance on its website at dnr.wi.gov, search “site investigation scoping.”

Per Wis. Admin. Code §§ NR 716.07 and NR 716.09, site investigation scoping and work plans should include an evaluation of the history of the site or facility, including industrial, commercial or other land uses that may have been associated with one or more hazardous substance discharges at the facility. In addition, an evaluation of the history of previous hazardous substance discharges or environmental pollution, the location of the site or facility, and its proximity to other sources of contamination must be included. Site investigation work plans should also include a sampling and analysis strategy to be used during field investigation that considers all information in the evaluation conducted under Wis. Admin. Code § NR 716.07. Emerging contaminants discharged to the environment, including perfluoroalkyl and polyfluoroalkyl substances (PFAS) and 1,4-dioxane, meet the definition of a hazardous substance or environmental pollution under Wis. Stat. § 292.01 and must be considered during site investigation scoping.

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 DNR'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 DNR notification to proceed; however, if the DNR 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 DNR review of the work plan is submitted, the field investigation must begin within 60 days after receiving DNR approval.
3. **Sample Results Notification Requirements – NR 716.14**: You must report sampling results to the DNR, owners, occupants and various other parties within 10 business days after receiving the sampling results, unless a different timeframe is approved by the DNR, 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 DNR. 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 DNR, the responsible party shall submit all plans and reports required by 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 a 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 and § NR 726.13 (1) (d).
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 DNR until 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 DNR publication *NR 700 Semi-Annual Site Progress Report* (RR-082), for more information.

Submittals required under Wis. Admin. Code chs. NR 700-799

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

- ☐ 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 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 requesting 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 DNR tracks information on all cleanup sites in a DNR database available at dnr.wi.gov, 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:

Linda Michalets
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
1027 W. St. Paul Avenue
Milwaukee, WI 53233
Linda.Michalets@wisconsin.gov

To speed up processing, your correspondence should reference the BRRTS and Facility Identification (FID) numbers listed at the top of this letter.

Submittals required under the NR 700 rule series should be sent to the DNR using the RR Program Submittal Portal at dnr.wi.gov, search “RR submittal portal” (<https://dnr.wi.gov/topic/Brownfields/Submittal.html>). Questions about using this portal can be directed to the contact below or to the environmental program associate (EPA) for the regional DNR office. Visit dnr.wi.gov, search “RR contacts” and select the EPA tab (<https://dnr.wi.gov/topic/Brownfields/Contact.html>).

Please visit the DNR’s Remediation and Redevelopment Program web page at dnr.wi.gov, 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.

Information about selecting a consultant, environmental contamination basics, vapor intrusion and selling a contaminated property are enclosed.

If you have any questions, please contact me, the DNR Project Manager, at Linda.Michalets@wisconsin.gov or at 414-435-8010.

Thank you for your cooperation.

Sincerely,



Linda Michalets
Hydrogeologist
Remediation and Redevelopment Program

Enclosures: RR-502, *Selecting a Consultant*
RR-674, *Environmental Contamination Basics*
RR-892, *What is Vapor Intrusion?*
RR-973, *Guidance: Environmental Contamination & Your Real Estate*



Remediation and Redevelopment Program

April 2022

Guidance: Selecting a Qualified Environmental Consultant (FAQs)

The investigation and remediation of hazardous substance discharges and environmental pollution can be complex and costly. Wis. Admin. Code ch. NR 712 establishes qualifications for environmental consultants who perform investigation and cleanup work in Wisconsin and requires specific credentials to sign off on certain activities.

How do I find a qualified environmental consultant?

The Wisconsin Department of Natural Resources (DNR) cannot recommend specific consultants or firms; however, the DNR maintains a public list of providers who have identified themselves as consultants that conduct environmental work in Wisconsin. See DNR publication RR-024, *Environmental Services Contractors List*; go to dnr.wi.gov and search “RR-024.”

Area businesses, municipalities and professional associations that have overseen environmental investigations and cleanups may be able to provide environmental consultant recommendations.

What property information should I share with a consultant when requesting a quote for services?

Share as much information as possible about the property with consultants you consider hiring, including knowledge of known contamination or environmental pollution and potential sources of contamination. This will allow the consultant to prepare an effective workplan and accurate quote for the site-specific services needed.

Common information to share with a prospective consultant includes:

- The current property use and history, including businesses that currently or previously operated at the property;
- Products and materials that are currently or were historically used, stored, recycled or disposed of at the property;
- Potential areas and sources of contamination (e.g., storage tanks, waste disposal sites, dry cleaning machines);
- The water supply source for the property;
- The current land use of surrounding properties; and
- A copy of any correspondence you received from the DNR, which includes information consultants can use to review the site-specific requirements for investigation and cleanup.

What questions should I ask to evaluate a consultant's qualifications?

When soliciting proposals or qualifications from environmental consulting services consider the following questions:

- Does the consulting firm have staff that meet the professional qualifications required by Wis. Admin. Code ch. NR 712 to perform environmental response actions in Wisconsin? Are staff licensed and

Purpose

This publication is intended to help responsible parties and others understand how to select a qualified environmental consultant to investigate and clean up soil, groundwater, sediment and other contaminated environmental media per Wisconsin Statute chapter (Wis. Stat. ch.) 292 and Wisconsin Administrative (Wis. Admin.) Code chs. NR 700-799. Hiring a qualified environmental consultant is needed to investigate and remediate your property in accordance with local, state and federal rules.

More information

- *Wis. Admin. Code ch. NR 712 Qualifications and Certifications*, RR-081 (Go to dnr.wi.gov; search “RR-081.”)
- Selecting an Environmental Consultant webpage: <https://dnr.wisconsin.gov/topic/Brownfields/Select.html>

registered as professional engineers, hydrologists or geologists with the Wisconsin Department of Safety and Professional Services, per Wis. Admin. Code ch. NR 712, appropriate for the work that needs to be completed at your site? See DNR publication RR-081, *NR Qualifications and Certifications*; go to dnr.wi.gov and search “RR-081.”

- How many years of experience does the firm and its staff have conducting environmental investigation and remediation work in Wisconsin?
- How many projects has the firm completed in Wisconsin or elsewhere that have similar characteristics to your property? What is their experience with projects like yours?
- What administrative rules do they expect to follow while investigating and cleaning up your property? If a potential consultant is not familiar with the Wis. Admin. Code chs. NR 700-799 (which governs environmental cleanups) or Wis. Admin. Code ch. NR 140 (which governs groundwater standards), it may be an indication that they are not familiar with Wisconsin’s environmental regulations.
- What type and level of insurance do they carry? Does the insurance include professional liability coverage and errors and omissions?
- Will the firm provide references?
- If applicable, ask how the firm’s proposed approach to your property might differ from other consultants.

What questions should I ask when talking with a consultant's references?

When contacting references for a prospective consultant, ask questions that help determine if they have experience relevant to your property and if the reference was satisfied with the consultant’s services.

Possible questions include:

- What tasks did the consultant perform for you?
- What was the size of the project?
- What type of contamination did the consultant address (to compare how similar their project is to yours)?
- Did the consultant stay on schedule or provide reasonable explanations for delays? Were they reliable?
- Did the consultant keep you informed of the project status, new developments and options for cleanup?
- If project problems arose, were they resolved to your satisfaction?
- Did the consultant work effectively with the DNR (and local officials if relevant)?
- Were invoices or payment requests clear, descriptive and timely?
- Did the consultant request approval in advance of billing for all significant changes to the original cost estimate?
- Would you hire this consultant again?

How much does a site investigation and cleanup cost?

The costs for environmental investigations and remediation work vary widely based on the type and extent of contamination, site conditions, the consultant’s approach, your preferred approach (if applicable) and the schedule you request to complete the work. Ask prospective consultants what to expect for your situation.

Possible questions include:

- What is the consultant’s approach to the project and projected range of overall costs? Are there alternate approaches to the project that might be considered? How would alternate approaches affect the overall cost and progress?
- Will subcontractors be obtained through a competitive bidding process? What is the markup on subcontractor expenses?
- Will the consultant charge for professional services on a time and materials basis, lump sum or other method? What hourly rates will be charged for professional services? Are there any overhead charges?

- Will the consultant provide a not-to-exceed cost estimate for each phase of work?
- How will the consultant charge for travel and meals (e.g., per diem, itemized expenses)?
- How will equipment and supplies be charged (e.g., daily rate, itemized expenses)?
- How often will invoices be sent and how will they be itemized?
- Is the consultant able to estimate the overall project cost or provide a range of the possible cost based on best- and worst-case scenarios?
- If there are changes in the cost, scope of work or work schedule, how will the consultant notify you? Will the consultant request your approval prior to any changes?

It is often difficult to compare competing proposals from different consulting firms, as different firms may propose a different approach to the same project, which is allowed under Wis. Admin. Code chs. NR 700-799. In addition, following Wis. Admin. Code chs. NR 700-799 may be an iterative process; multiple field efforts may be needed to define the nature, degree and extent of contamination or to clean up a site, depending on the complexity of the site and the selected approach. Some items to consider when comparing proposals from consulting service providers:

- Carefully evaluate cost estimates that are significantly higher or lower than others and ask the consultants how its approach affected the cost of the project.
- Compare the proposed schedules for completion of work. Ask how a faster or slower approach affects the cost.
- Consider how the proposed approach and schedule affects your objectives for the property.

How can the DNR help?

Wis. Admin. Rules chs. NR 700-799 offer multiple options to complete environmental site investigations and remediation. A qualified consultant can help identify the best approach that also meets your needs. DNR staff can provide fee-based technical assistance reviews, response letters and meetings to help move sites to closure. DNR staff are also available to discuss project activities with property owners, consultants, municipalities, developers and others. Staff contact information can be found by visiting dnr.wi.gov and searching “RR contacts.”

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.

The Wisconsin Department of Natural Resources (DNR) is committed to promoting diversity, fairness, equity and the principles of environmental justice. We ensure that we do not discriminate in employment, programs, decisions, actions or delivery of services. If you have questions or to request information in an alternative format (large print, Braille, audio tape, etc.), please contact us at 888-936-7463 or <https://dnr.wisconsin.gov/About/Nondiscrimination>



Environmental Contamination: The Basics

RR-674

September 2014

In an industrialized society like ours, a wide variety of contaminants are discharged to the environment every day from residential, commercial and industrial sources. Many of these discharges may not pose a threat to the public and the environment. However, a significant discharge of a contaminant or hazardous substance has the potential to impact human health or the environment. When a significant discharge occurs, the Wisconsin Department of Natural Resources (DNR), particularly the Remediation and Redevelopment Program (RR Program), provides oversight and assistance in making sure the public and the environment are protected.

A **Hazardous Substance**, as defined in Wis. Stat. § 292.01 means any substance or combination of substances, including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in the mortality or an increase in serious irreversible or incapacitating reversible illness, or which may pose a substantial present or potential hazard to human health or the environment because of its quality, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances that are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the DNR.

What is the RR Program?

The RR Program becomes involved when a discharge of a hazardous or potentially hazardous substance occurs to the lands, waters or air in the State of Wisconsin. When a discharge is reported, the RR Program evaluates the severity of the discharge and, if necessary, ensures that the proper cleanup procedures are followed to minimize any threat to human health or the environment.

The RR Program also provides technical and regulatory assistance to public and private parties looking for information, investigating and cleaning up properties with real or perceived contamination. In certain circumstances, the DNR is required to charge a fee for technical assistance. Attention is provided to abandoned or underutilized properties, known as *brownfields*, in an effort to return these properties back to productive use. This effort also promotes the revitalization of blighted areas, as well as the reuse or redevelopment of properties already located in urban areas in order to preserve undeveloped land, also referred to as *greenfields*.

Why should I be concerned?

Not only is it a legal requirement to take necessary steps to address contamination, but contamination can have an adverse impact on human health and the environment. It can take many forms and can occur anywhere. In Wisconsin, two major concerns for environmental and public health impacts from contamination are the degradation of groundwater and vapor intrusion of chemicals. Soil, air and surface water contamination are also areas of concern. When a discharge to the environment has been identified, the DNR is mandated by state law to require response actions that are protective of human health, safety and welfare, and to restore the environment to the extent practicable.

An individual or local government may assume liability for environmental cleanups by acquiring a contaminated property, although there are exemptions for local governments that acquire properties by certain means. The Wisconsin Supreme Court has determined that if you own a contaminated property



Wisconsin Department of Natural Resources
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dnr.wi.gov, search "Brownfield"



where contaminants are continuing to migrate, then you may be responsible for cleaning it up, even if you did not cause the contamination, because you are interpreted as having “possession and control” of the discharge.

Stressed vegetation, stained soils, odors, a sheen on the surface of water or a strange taste to water are often obvious indicators of a potential discharge or environmental problem. In addition to these more obvious factors, historical property usage such as plating operations, dry cleaners or engine repairs could also be indicative of other hidden environmental problems. For example, a serious environmental problem that is hard to detect is leakage from an underground storage tank (UST). Unless good records are kept regarding product usage, underground leaks are hard to identify.



What is a discharge?

A discharge to the environment is defined in Wis. Stat. § 292.01 and means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping. To obtain more information on what constitutes a hazardous substance discharge, refer to the Regulations listed in the “For more information” section on page three.

How is a discharge discovered?

Discharges to the environment are discovered in several ways. The most common methods of discovery are visual observation while the discharge is taking place (i.e., a leaking gas pump) or historical discharges discovered during building expansion or demolition, road construction activities, utility repairs or tank removal or upgrade activities.

Discharges can also be discovered at the time of property transfer if a potential buyer requests a Phase I or Phase II Environmental Site Assessment (ESA). A Phase I ESA consists of a historical search and identifies current and past property usage and areas of potential environmental concern. A Phase II ESA consists of collecting soil and groundwater samples at the property from those areas identified in the Phase I ESA with suspected or known contamination (i.e., areas of drum storage, stressed vegetation, stained soils, above and below ground storage tanks).

When do I need to report a discharge?

According to the “Spill Law,” Wis. Stat. § 292.11, persons who cause, possess or control the discharge of a hazardous substance that adversely impacts, or threatens to adversely impact public health, welfare or the environment must immediately report the discharge to the DNR. Generally, this responsibility falls upon the current property owner. **Emergency spills must be immediately reported by calling the DNR 24-hour toll free Spill Hotline at 1-800-943-0003.** Non-emergency discharges discovered via a tank removal or environmental testing can be reported by submitting the web form, *Notification for Hazardous Substance Discharge Form – Non-Emergency Only* (Form 4400-225), or by visiting your DNR regional headquarters in person during normal business hours (please see page 4 for contact information). Directions for accessing and submitting web form 4400-225 are available on the RR Program Submittal Portal web page at <https://dnr.wisconsin.gov/topic/Brownfields/Submittal.html>.

If the testing was done as part of a Phase II ESA, report the discharge immediately upon discovery. Do not wait until a Phase II ESA report is completed to report a spill.

What happens next?

Once the DNR has been notified that contamination exists at a site, the DNR will inform the responsible party by telephone or mail if any further actions are needed. The range of actions is defined in the NR 700 rule series (referenced in the “For more information” section). The responsible party is then, in most cases, issued a responsible party letter that outlines legal responsibilities for addressing contamination. The letter will ask the responsible party to hire a qualified environmental consultant. The consultant will submit a work plan that details how they will investigate the degree and extent of the contamination (if necessary, across property boundaries) by collecting soil or groundwater samples.

After determining the degree and extent of the contamination, the environmental consultant will prepare a site investigation report that summarizes the results of their findings. Typically, the consultant will also provide a cleanup strategy in this report. Cleanup measures are then undertaken by the consultant on behalf of the responsible party to restore the environment.

Once the site appears to meet all regulatory requirements, the consultant will prepare a closure request for DNR submittal. Once the appropriate fee has been submitted, the DNR reviews the closure request and determines whether or not the site has been cleaned up to acceptable levels. If closure is appropriate, the DNR or any other state agency with jurisdiction over the case will issue a closure letter indicating that the responsible party has complied with the conditions of closure.

What is a “Responsible Party?”

A responsible party is an individual or public or private entity who causes a discharge of a hazardous substance or who possesses or controls a hazardous substance which is discharged. The responsible party is legally required under Wisconsin’s Spill Law to notify the DNR of the discharge and to investigate and remediate the environment. There may be more than one responsible party at a site.

What is the role of an environmental consultant?

When the DNR informs you that you need to address contamination, you will be requested to hire the services of a professional environmental consultant. The role of the environmental consultant is to determine the most appropriate and cost-effective way to investigate and remediate the contaminated site. The consultant should act as a representative for the responsible party on technical matters and should have a thorough understanding of regulatory requirements. It is important to feel comfortable with your environmental consultant, as they will be working closely with you and the DNR. Qualifications for environmental consultants are specified in Wis. Admin. Code ch. NR 712. More information can be found in *Selecting an Environmental Consultant* (RR-502) at dnr.wi.gov/files/PDF/pubs/rr/RR502.pdf.

For more information...

The RR Program website has many features to assist you. For example, you can locate DNR staff contacts, access DNR publications, obtain environmental information on specific properties or find information on financial incentives. The website can be found at dnr.wi.gov/topic/Brownfields.

The following are just a few of the DNR resources that can be found on the RR Program website:

Information on Contaminated Sites:

- *BRRTS on the Web*, the RR Program’s list of open (still investigating) and closed (cleanup completed) contaminated sites in Wisconsin. dnr.wi.gov/topic/Brownfields/botw.html
- *RR Sites Map*, the RR Program’s web-based mapping system for contaminated and cleaned up sites dnr.wi.gov/topic/Brownfields/rasm.html

In addition, appointments to view paper copies of DNR files can be made by contacting your DNR regional headquarters at the telephone numbers listed below during normal business hours. Please be aware that some of our services require a fee. Please see our website at dnr.wi.gov/topic/Brownfields/Fees.html for more information on fees.

Publications:

DNR publications include a number beginning with “RR-”. Visit dnr.wi.gov and search for that number to locate the publication.

- *Environmental Services Contractors List* (RR-024)
- *Financial Resources Guide for Cleanup and Redevelopment* (RR-539)
- *Selecting an Environmental Consultant* (RR-502)
- *Voluntary Party Remediation and Exemption from Liability* (RR-506)
- *Notification for Hazardous Discharge Form – Non-Emergency Only* (Form 4400-225) — Form 4400-225 is a web form. Directions for accessing and submitting Form 4400-225 are available on the *RR Program Submittal Portal* web page at dnr.wisconsin.gov/topic/Brownfields/Submittal.html.

All Remediation and Redevelopment publications can be searched for at dnr.wi.gov/topic/Brownfields/Pubs.html.

Regulations:

- Hazardous Substance (Wisconsin State Statutes 292.01)
- Spills Law (Wisconsin State Statutes 292.11)
- Wisconsin Administrative Code Chapter NR 140
- Wisconsin Administrative Code Chapter NR 700 Rule Series

Contacts:

- Questions should be directed to the brownfields specialist in your local DNR regional office. Visit dnr.wisconsin.gov/topic/Brownfields/Contact.html



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 DNR vapor intrusion quick facts

What is Vapor Intrusion?



Chemicals used in commercial or industrial activities – dry cleaning chemicals, chemical degreasers and petroleum products such as gasoline – are sometimes spilled and leak into nearby soil or groundwater. When this happens, these chemicals may release gases or vapors, which travel from the contaminated groundwater or soil and move into nearby homes or businesses. This is called vapor intrusion.

The process when chemical vapors from contaminated soil or groundwater enter a home or other structure is called vapor intrusion.

Why are these chemical vapors a problem?

The chemicals that cause vapor intrusion are known as volatile organic compounds, or VOCs. Even when spilled into soil or water, these chemicals easily evaporate. They don't cause human health problems when they evaporate into the outside air, but when their vapors move into homes or businesses, they may cause long-term health problems for the people who live or work in those buildings. These vapors are usually odorless and colorless and undetectable without special testing equipment.

Why is vapor intrusion a concern?

Exposure to some chemical gases or vapors can cause an increased risk of adverse health effects. Whether or not a person experiences any health effects depends on several factors, including the amount and length of exposure, the toxicity of the chemical, and the individual's sensitivity to the chemical. When harmful chemical vapor intrusion is the result of environmental contamination, the Wisconsin Department of Natural Resources (DNR) requires that steps be taken to reduce or eliminate exposures which could be harmful to human health.

What should I expect if vapor intrusion is suspected near my home or business?

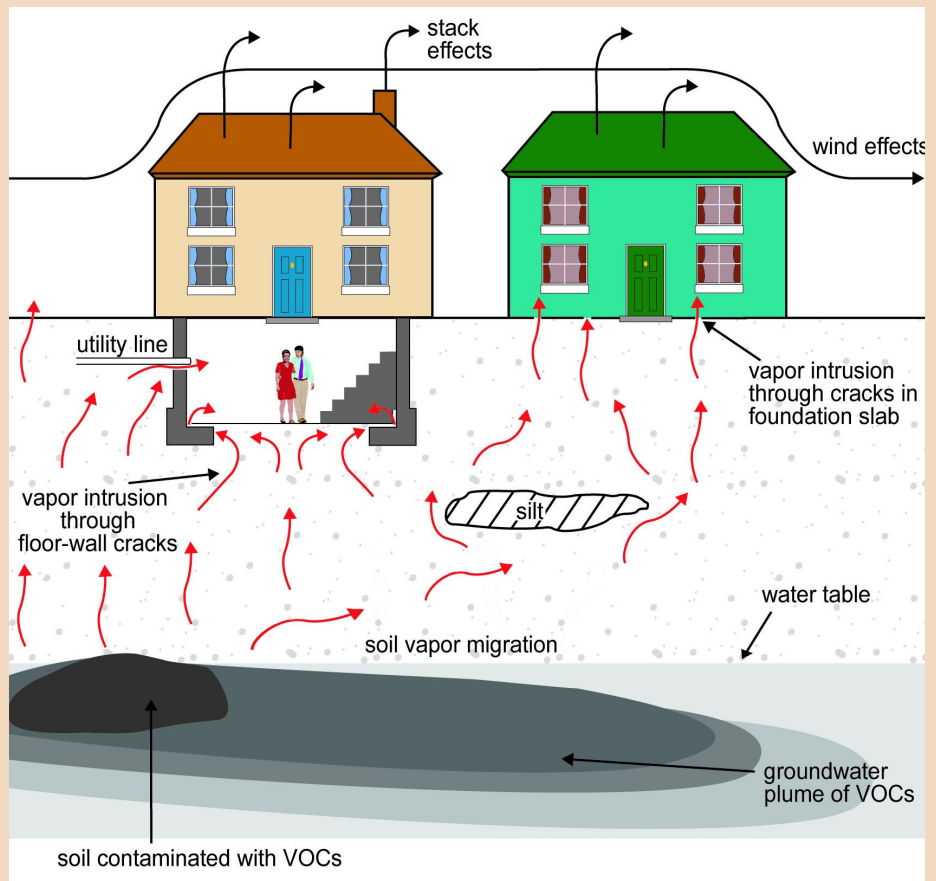
For businesses or other locations where VOC contamination has been found, the DNR requires that the potential for vapor intrusion be investigated. If you live near a site being cleaned up, you may be contacted by the site owner or others working on the cleanup. Your cooperation and consent will be requested before any testing or sampling is conducted on your property. Ask the person contacting you any questions you have about the work being done, or contact the DNR for more information (see DNR contact information on reverse). For more information about testing for vapor intrusion, see DNR-Pub-RR-954, "What to Expect During Vapor Intrusion Sampling."



How Vapors Enter a Building

If you live near a commercial or industrial facility or landfill where VOCs have entered either the soil or groundwater, there may be a potential for those chemicals to travel as vapors into your home or business. Vapors can enter buildings in various ways, including through cracks in the foundation and openings for utility lines. Building ventilation and weather can influence the extent of vapor intrusion.

*Adapted from U.S. Environmental Protection Agency (EPA) graphic.
www.epa.gov/oswer/vaporintrusion/basic.html*



Where can I find more information?

Health and vapor-related information can be found at the Wisconsin Department of Health Services (DHS) website at dhs.wisconsin.gov, search "Vapor." For other health-related questions, please contact your local health department: www.dhs.wisconsin.gov/localhealth.

For more DNR information, please visit the DNR's Remediation and Redevelopment (RR) Program's Vapor Intrusion page at dnr.wi.gov/topic/Brownfields/Vapor.html.

Additional information can be obtained through the DNR field office in your region. To find the correct office, visit the RR Program Staff Contacts page at dnr.wi.gov/topic/Brownfields/Contact.html or call the RR Program at (608) 266-2111.

This document contains information about certain state statutes and administrative rules but does not necessarily include all of the details found in the statutes and rules. Readers should consult the actual language of the statutes and rules to answer specific questions. The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240. This publication is available in alternative format upon request. Please call 608-267-3543 for more information.



Remediation and Redevelopment Program

January 2023

Guidance: Environmental Contamination & Your Real Estate**Wis. Stat. ch. 709****Purpose**

The purpose of this guidance is to help property owners understand the impact contamination may have on the market value of their property and the legal obligations they have should the property be sold in the future.

Contamination may impact the market value of your home or property. The good news is that effects of environmental contamination – human-made or naturally occurring – can be managed. For example, in homes where radon gas is an issue, a special ventilation system can be installed to keep the gas from collecting inside the home. Such systems are widely used and generally viewed as an acceptable remedy to this naturally occurring toxic gas. Similar systems or other remedies exist to mitigate contaminants caused by human activity (e.g., vapors from petroleum or chlorinated solvents).

If contamination exists at a property, owners should know that if they sell their home or land in the future, they may be required by Wisconsin law to disclose certain conditions about the property.

As a seller, what am I required to disclose in Wisconsin?

If you own real estate in Wisconsin and are planning to sell, state law requires you to disclose any “defects,” as defined in Wis. Stat. ch. 709 that would:

- Have a significant adverse effect on the value of the property
- Significantly impair the health or safety of future occupants of the property
- Significantly shorten or adversely affect the expected normal life of the premises, if not repaired, removed or replaced

Market Value is the price at which a home will sell within a reasonable period of time and is determined by the buyers in the marketplace at the time a homeowner is offering to sell. When you’re ready to sell your home or property, consider working with a licensed real estate broker and/or lawyer to assist with selling any real property, including the process of setting a value.

How do I meet the disclosure requirement?

The disclosure process varies by property type (e.g., residential, commercial, vacant land). Standard real estate forms are available to help owners of residential property and vacant land comply with legal disclosure requirements. Pre-purchase investigations and broker disclosure duties in commercial real estate transactions are typically rigorous and should identify environmental issues.

1. The *Residential Real Estate Condition Report Form* includes questions regarding fuel storage tanks located on the property; unsafe concentrations of radon, radium, lead and other potentially hazardous substances on the premises; and unsafe concentrations or conditions related to hazardous or toxic substance on neighboring properties. *See* Wis. Stat. § 709.03.
2. The *Vacant Land Disclosure Form* includes questions regarding material violations of environmental rules; the presence of underground storage tanks; subsoil conditions that would increase the cost of development; and the presence of brownfields or other contaminated land on the property. *See* Wis. Stat. § 709.033.

What information is my real estate professional required to disclose to potential buyers?

State law requires listing brokers to inspect the property and to “make inquiries of the seller on the condition of the structure, mechanical systems and other relevant aspects of the property” (Wis. Admin. Code § REEB 24.07(1)(b)). State law also requires listing brokers to disclose all “material adverse facts” discovered in a broker’s inspection or disclosed by the owner, in writing, in a timely manner. *See* Wis. Admin. Code § REEB 24.07(2); Wis. Stat. § 452.133(1)(c). This requirement includes other property types in addition to residential and vacant land, such as commercial property.

Find contaminated properties online

Information about contaminated properties and other activities in Wisconsin is available on the DNR’s web-based mapping system (RR Sites Map) and online database (BRRTS on the Web) at

<https://dnr.wisconsin.gov/topic/Brownfields/WRRD.html>.

This database includes properties where contamination exists, but threats to public health, safety, welfare and the environment are controlled by requirements such as land use restrictions, vapor mitigation systems, engineered caps, asphalt covers, etc.

Registered tank database

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) maintains a list of registered storage tanks. Go to datcp.wi.gov and search “Storage Tank Database.”

For more information

Specific questions regarding Wisconsin real estate disclosure laws should be directed to independent legal counsel. This broad overview on real estate disclosure is not a substitute for receiving situation-specific professional advice. Sellers and buyers of real estate should obtain assistance from a licensed real estate broker and/or an attorney if they have questions about their legal rights and obligations in specific real estate transactions. Professional assistance with environmental investigation is also strongly recommended. Chapters 709 and 452 of the Wisconsin Statutes clarify disclosures by owners of real estate and real estate practice requirements. Chapters REEB 11-25 of the Wisconsin Administrative Code contain the Real Estate Examining Board’s rules related to real estate practice requirements.

The Wisconsin Department of Natural Resources (DNR) is committed to promoting diversity, fairness, equity and the principles of environmental justice. We ensure that we do not discriminate in employment, programs, decisions, actions or delivery of services. If you have questions or to request information in an alternative format (large print, Braille, audio tape, etc.), please contact us at 888-936-7463 or <https://dnr.wisconsin.gov/About/Nondiscrimination>