State of Wisconsin
Department of Natural Resources
PO Box 7921, Madison WI 53707-7921
dnr.wi.gov

Technical Assistance and Environmental Liability Clarification Request

Form 4400-237 (R 10/13)

Notice: Use this form to request **a written response (on agency letterhead)** from the Department of Natural Resources (DNR) regarding technical assistance or liability clarification for property with known or suspected environmental contamination. A fee may be required as is authorized by s. 292.55, Wis. Stats., and NR 749, Wis. Adm. Code. Personal information collected will be used for administrative purposes and may be provided to requesters to the extent required by Wisconsin's Open Records law [ss. 19.31 - 19.39, Wis. Stats.].

Definitions

"Property" refers to the subject property that is perceived to have been or has been impacted by the discharge of hazardous substances.

"Liability Clarification" refers to a written determination by the Department provided in response to a request made on this form. The response clarifies whether a person is or may become liable for the environmental contamination of a property, as provided in s. 292.55, Wis. Stats.

"Technical Assistance" refers to the Department's assistance or comments on the planning and implementation of an environmental investigation or environmental cleanup on a property in response to a request made on this form as provided in s 292.55, Wis. Stats.

Select the Correct Form

Do not use this form if one of the following applies:

- Request for an **off-site liability exemption or clarification** for property that has been or is perceived to be contaminated by one or more hazardous substances that originated on another property containing the source of the contamination. Use DNR's Off-Site Liability Exemption and Liability Clarification Application Form 4400-201.
- Submittal of an Environmental Assessment for the **Lender Liability Exemption**, s 292.21, Wis. Stats., **if no response or review by DNR is requested**. Use the Lender Liability Exemption Environmental Assessment Tracking Form 4400-196.
- Request for an **exemption to develop on a historic fill site** or licensed landfill. Use DNR's Form 4400-226 or 4400-226A.
- **Request for closure** for property where the investigation **and cleanup actions** are completed. Use DNR's Case Summary and Closeout Request Form 4400-202.

All forms, publications and additional information are available on the internet at: dnr.wi.gov/topic/Brownfields/Pubs.html.

Instructions

1. Complete Sections 1, 2, 6 and 7 for all requests. Be sure to provide adequate and complete information.
2. Select the type of assistance requested: Section 3 for technical assistance; Section 4 for a written determination or clarification of environmental liabilities; o Section 5 for a specialized agreement.
3. Include the fee payment that is listed in Section 3, 4, or 5, unless the property is in the Voluntary Party Liability Exemption Program **and** the questions in Section 2 direct otherwise.
4. Send the completed request and supporting materials to the appropriate DNR regional office where the property is located. See the map on the last page. Contact the DNR project manager or call the phone numbers listed with any questions.

The time required for DNR's determination varies depending on the complexity of the site, and the clarity and completeness of the request and supporting documentation.

Section 1: Recipient of the Technical Assistance, Liability Clarification or Agreement from the Department

This is the person who is requesting that his or her liability be clarified or who is seeking technical assistance or a specialized agreement and is identified as the applicant in Section 7. DNR will address its response letter to this person.

Last Name	First	MI	Organization/ Business Name		
Martino	Dan		Martino's Master Dry Cleaners		
Mailing Address			**City**	**State**	**ZIP Code**
7513 41st Ave			Kenosha	WI	53142
Phone # (include area code)	**Fax # (include area code)**		**Email**		
(262) 694-7858			danmartinosr@aol.com		

The applicant listed above: (select all that apply)

- ☒ Is currently the owner
- ☐ Is considering selling the property
- ☐ Is renting or leasing the property
- ☐ Is considering acquiring the property
- ☐ Has mortgagee interest in the property
- ☐ Other. Explain the status of the property with respect to the applicant:

Contact Information (to be contacted with questions about this request)

Contact Last Name	First	MI	Organization/ Business Name		
Mailing Address			**City**	**State**	**ZIP Code**
Phone # (include area code)	**Fax # (include area code)**		**Email**		

Environmental Consultant (if applicable)

Contact Last Name	First	MI	Organization/ Business Name		
Hoverman	Rob		EnviroForensics		
Mailing Address			**City**	**State**	**ZIP Code**
N16W23390 Stone Ridge Dr, Suite G			Waukesha	WI	53188
Phone # (include area code)	**Fax # (include area code)**		**Email**		
(317) 972-7870	(317) 972-7875		rhoverman@enviroforensics.com		

Attorney (if applicable)

Contact Last Name	First	MI	Organization/ Business Name		
Warpinski	Ted		Friebert, Finerty & St. John		
Mailing Address			**City**	**State**	**ZIP Code**
330 East Kilbourn Avenue, Suite 1250			Milwaukee	WI	53202
Phone # (include area code)	**Fax # (include area code)**		**Email**		
(414) 271-0130	(414) 272-8191		taw@ffsj.com		

Property Owner (if different from applicant)

Contact Last Name	First	MI	Organization/ Business Name		
Mailing Address			**City**	**State**	**ZIP Code**
Phone # (include area code)	**Fax # (include area code)**		**Email**		

Section 2. Property Information

BRRTS ID No. (if known)	FID No. (if known)	Property Name	Tax Parcel #
02-30-287150	230007910	Martino's Cleaners	12-223-31-138-001

Street Address	City	State	ZIP Code
4700 7th Ave	Kenosha	WI	53140

County	Municipality where the property is located	Property is composed of:	Property Size Acres
Kenosha	◉ City ○ Town ○ Village of Kenosha	◉ Single tax parcel ○ Multiple tax parcels	0.33

1. Is a response needed by a specific date? (e.g., property closing date) Note: Most requests are completed within 60 days. Please plan accordingly.

◉ No ○ Yes Reason: _____

2. Is this property currently enrolled in or undergoing cleanup actions under the Voluntary Party Liability Exemption (VPLE) program?

◉ No. **Include fee that is required for your request in Section 3, 4 or 5.**

○ Yes. If yes, is the recipient listed above also the voluntary party who is currently reenrolled in the VPLE program at that

○ No. **Include fee that is listed for your request in Section 3, 4 or 5.**

○ Yes. **Do not include a separate fee.** This request will be billed separately through the VPLE Program.

Fill out the information in Section 3, 4 or 5 which corresponds with the type of request: Section 3. Technical Assistance; Section 4. Liability Clarification; or Section 5. Specialized Agreement.

Section 3. Property Information

Select the type of technical assistance requested: **[Numbers in brackets are for WI DNR Use]**

☐ No Further Action Letter (NFA) (Immediate Actions) [183] - NR 708.09 - **Include a fee of $350.** Use for a written response to an immediate action after a discharge or discovery of hazardous substance. Generally, these are one-time spill event.

☐ Review of Site Investigation Work Plan [135] - NR 716.09 - **Include a fee of $700.**

☐ Review of Site Investigation Report [137] - NR 716.15 - **Include a fee of $1050.**

☐ Approval of a Site Specific Soil Cleanup Standard [67] - NR 720.19 Reports - **Include a fee of $1050.**

☐ Review of a Remedial Action Options Report [143] - NR 722.13 - **Include a fee of $1050.**

☐ Review of a Remedial Action Design Report [148] - NR 724.09 - **Include a fee of $1050.**

☐ Review of a Remedial Action Documentation Report [152] - NR 724.15 - **Include a fee of $350**

☐ Review of a Long-term Monitoring Plan [25] - NR 724.17 - **Include a fee of $425.**

☐ Review of an Operation and Maintenance Plan [192] - NR 724.13 - **Include a fee of $425.**

Other Technical Assistance [97] - s. 292.55, Wis. Stats. (For request to build on an abandoned landfill use Form 4400-226)

☒ Schedule a Technical Assistance Meeting - **Include a fee of $700.**

☐ Hazardous Waste Determination - **Include a fee of $700.**

☐ Other Technical Assistance - **Include a fee of $700.** Explain your request below or in an attachment.

Skip Sections 4 and 5 if the technical assistance you are requesting is listed above. Complete Sections 6 and 7 of this form.

Section 4. Request for Liability Clarification

Select the type of liability clarification requested. Use the available space given or attach information, explanations, or specific questions that you need answered in DNR's reply. Complete Sections 6 and 7 of this form. **[Numbers in brackets are for DNR Use]**

☐ "Lender" liability exemption clarification [686] - s. 292.21, Wis. Stats.

❖ **Include a fee of $700.**

Provide the following documentation:

(1) ownership status; of the property;

(2) an environmental assessment, in accordance with s. 292.21, Wis. Stats.;

(3) the date the environmental assessment was conducted by the lender;

(4) the date of property acquisition;

(5) documentation showing how the property was acquired;

(6) a copy of the property deed with the correct legal description; and,

(7) the Lender Liability Exemption Environmental Assessment Tracking Form (Form 4400-196).

(8) If no sampling was done, please provide reasoning as to why it was **not** conducted. Include this either in the accompanying environmental assessment or as an attachment to this form, and cite language in s. 292. 21(1)(c)2.,h.-i., Wis. Stats.:

h. The collection and analysis of representative samples of soil or other materials in the ground that are suspected of being contaminated based on observations made during a visual inspection of the real property or based on aerial photographs, or other information available to the lender, including stained or discolored soil or other materials in the ground and including soil or materials in the ground in areas with dead or distressed vegetation. The collection and analysis shall identify contaminants in the soil or other materials in the ground and shall quantify concentrations.

i. The collection and analysis of representative samples of unknown wastes or potentially hazardous substances found on the real property and the determination of concentrations of hazardous waste and hazardous substances found in tanks, drums or other containers or in piles or lagoons on the real property.

☐ "Representative" liability exemption clarification (e.g. trustees, receivers, etc.) [686] - s.292.21, Wis. Stats.

❖ **Include a fee of $700.**

Provide the following documentation:

(1) ownership status of the property;

(2) the date of property acquisition by the representative;

(3) the means by which the property was acquired;

(4) documentation that the representative has no beneficial interest in any entity that owns, possesses, or controls the property;

(5) documentation that the representative has not caused any discharge of a hazardous substance on the property; and

(6) a copy of the property deed with the correct legal description.

☐ Clarification of local governmental unit (LGU) liability exemption at sites with: (select all that apply)

- ☐ hazardous substances spills - s. 292.11(9)(e), Wis. Stats. [649];
- ☐ hazardous waste - s.292.24 (2), Wis. Stats. [649]; and/or
- ☐ solid waste - s. 292.23 (2), Wis. Stats. [649].

❖ **Include a fee of $700, a summary of the environmental liability clarification being requested, and the following:**
(1) current and proposed ownership status of the property;
(2) date and means by which the property was acquired by the LGU, where applicable;
(3) a map and the ¼, ¼ section location of the property;
(4) summary of current uses of the property;
(5) intended or potential use(s) of the property;
(6) descriptions of other investigations that have taken place on the property; and
(7) (for solid waste clarifications) a summary of the license history of the facility.

Section 4. Request for Liability Clarification (cont.)

☐ Lease liability clarification [646] - s. 292.55, Wis. Stats.

- **Include a fee of $700 for a single property, or $1400 for multiple properties and the information listed below:**

(1) a copy of the proposed lease;

(2) the name of the current owner of the property and the person who will lease the property;

(3) a description of the lease holder's association with any persons who have possession, control, or caused a discharge of a hazardous substance on the property;

(4) map(s) showing the property location and any suspected or known sources of contamination detected on the property;

(5) a description of the intended use of the property by the lease holder, with reference to the maps to indicate which areas will be used. Explain how the use will not interfere with any future investigation or cleanup at the property; and

(6) all reports or investigations (e.g. Phase I and Phase II Environmental Assessments and/or Site Investigation Reports conducted under s. NR 716, Wis. Adm. Code) that identify areas of the property where a discharge has occurred.

General or other environmental liability clarification [682] - s. 292.55, Wis. Stats. - Explain your request below.

- **Include a fee of $700 and an adequate summary of relevant environmental work to date.**

☐ No Action Required (NAR) [682] - s. NR 716.05

- **Include a fee of $700.**

Use where an environmental discharge has or has not occurred, and applicant wants DNR determination that no further assessment or clean-up work is required. Usually this is requested after a Phase I and Phase II environmental assessment has been conducted; the assessment reports should be submitted with this form. This is not a closure letter.

☐ Clarify the liability associated with a "closed" property - s. 292.55, Wis. Stats.

- **Include a fee of $700.**

- Include a copy of any closure documents if a state agency other than DNR approved the closure.

Use this space or attach additional sheets to provide necessary information, explanations or specific questions to be answered by the DNR.

Section 5. Request for a Specialized Agreement

Select the type of agreement needed. Include the appropriate draft agreements and supporting materials. Complete Sections 6 and 7 of this form. More information and model draft agreements are available at: dnr.wi.gov/topic/Brownfields/lgu.html#tabx4.

☐ Tax cancellation agreement [654] - s. 75.105(2)(d), Wis. Stats.

- ❖ **Include a fee of $700, and the information listed below:**

  (1) Phase I and II Environmental Site Assessment Reports,
  (2) a copy of the property deed with the correct legal description; and,
  (3) a draft 75.105 agreement based on the DNR's model (dnr.wi.gov/topic/brownfields/documents/mod75-105agrmt.pdf).

☐ Agreement for assignment of tax foreclosure judgement - s.75.106, Wis. Stats. [666]

- ❖ **Include a fee of $700, and the information listed below:**

  (1) Phase I and II Environmental Site Assessment Reports,
  (2) a copy of the property deed with the correct legal description; and,
  (3) a draft 75.105 agreement based on the DNR's model (dnr.wi.gov/topic/brownfields/documents/mod75-106agrmt.pdf).

☐ Negotiated agreement - Enforceable contract for non-emergency remediation - s. 292.11(7)(d) and (e), Wis. Stats. [630]

- ❖ **Include a fee of $1400, and the information listed below:**

  (1) a draft schedule for remediation; and,
  (2) the name, mailing address, phone and email for each party to the agreement.

Section 6. Other Information Submitted

Identify all materials that are included with this request.

Include one copy of any document from any state agency files that you want the Department to review as part of this request. The applicant is responsible for contacting other state agencies to obtain appropriate reports or information.

☐ Phase I Environmental Site Assessment Report - Date: _____

☐ Phase II Environmental Site Assessment Report - Date: _____

☐ Legal Description of Property (required for all liability requests and specialized agreements)

☐ Map of the property (required for all liability requests and specialized agreements)

Analytical results of the following sampled media: Select all that apply and include date of collection.

☐ Groundwater ☐ Soil ☐ Sediment ☐ Other medium - Describe: _____

Date of Collection: _____

☐ A copy of the closure letter and submittal materials

☐ Draft tax cancellation agreement

☐ Draft agreement for assignment of tax foreclosure judgment

☒ Other report(s) or information - Describe: Site investigation documents provided at meeting

For property with newly identified discharges of hazardous substances only: Has a notification of a discharge of a hazardous substance been sent to the DNR as required by s. NR 706.05(1)(b), Wis. Adm. Code?

◯ Yes - Date (if known): _____
◯ No

Note: The Fax Notification for Hazardous Substance Discharge (non-emergency) form is available at: dnr.wi.gov/files/PDF/forms/4400/4400-225.pdf.

Section 7. Certification by the Person who completed this form

☐ I am the applicant

☒ I prepared this request for: Dan Martino
Applicant Name

I certify that I am familiar with the information submitted on this request, and that the information on and included with this request is true, accurate and complete to the best of my knowledge. I also certify I have the legal authority and the applicant's permission to make this request.

Signature

6/11/2014
Date Signed

Regional Manager
Title

(262) 510-0612
Telephone Number (include area code)

Section 8: DNR Contacts and Addresses for Request Submittals

Send or deliver the completed request, supporting materials, and fee to the region where the property is located. Contact the individual listed with any questions about this form or a specific situation involving contaminated property.

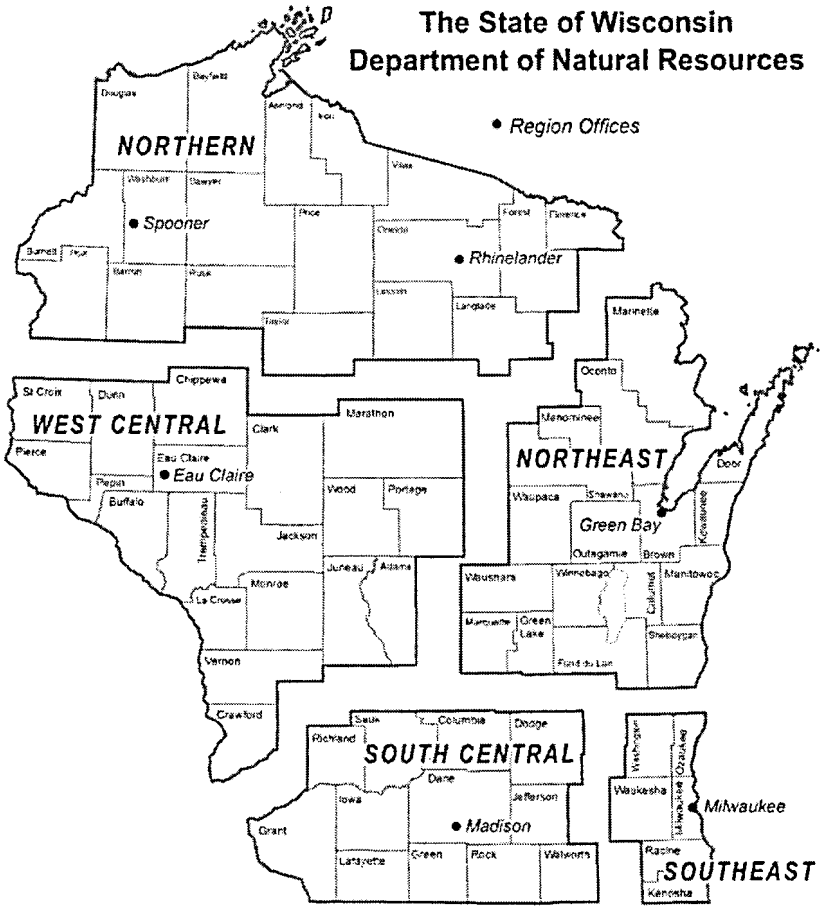
DNR NORTHERN REGION
Attn: RR Program Assistant
Department of Natural Resources
223 E Steinfest Rd Antigo, WI 54409
Carrie Stoltz (715) 365-8942

DNR NORTHEAST REGION
Attn: RR Program Assistant
Department of Natural Resources
2984 Shawano Avenue
Green Bay WI 54313
Annette Weissbach (920) 662-5165

DNR SOUTHEAST CENTRAL REGION
Attn: RR Program Assistant
Department of Natural Resources
3911 Fish Hatchery Road
Fitchburg WI 53711
Janet DiMaggio (608) 275-3295

DNR SOUTHEAST REGION
Attn: RR Program Assistant
Department of Natural Resources
2300 North Martin Luther King Drive
Milwaukee WI 53212
Margaret Brunette (414) 263-8557

DNR WEST CENTRAL REGION
Attn: RR Program Assistant
Department of Natural Resources
1300 Clairemont Ave.
Eau Claire WI 54702
Loren Brumberg (715) 839-3770



Note: These are the Remediation & Redevelopment Program's designated regions. Other DNR program regional boundaries may may be different.

DNR Use Only			
Date Received	Date Assigned	BRRTS Activity Code	BRRTS FID No. (if used)
DNR Reviewer	Comments		
Fee Enclosed? ◯ Yes ◯ No	Fee Amount $	Date Additional Information Requested	Date Requested for DNR Response Letter
Date Approved	Final Determination		