

## NR 725 Notification Requirements for Residual Contamination and Continuing Obligations.

- NR 725.01 Purpose.
- NR 725.02 Applicability.
- NR 725.03 Definitions.
- NR 725.05 Situations where notification is required.
- NR 725.07 General notification requirements.

**NR 725.01 Purpose.** The purpose of this chapter is to specify the minimum notification requirements that shall be met before the agency with administrative authority may determine that a specific site or facility may be closed under ch. NR 726 with a continuing obligation or residual contamination, or to approve a remedial action plan which includes a continuing obligation, and to identify which sites shall be included on a department database. This chapter is adopted pursuant to ss. 227.11(2), 287.03, 289.06 and ch. 292, Stats.

**NR 725.02 Applicability. (1)** This chapter applies to persons seeking closure that includes a property with residual contamination or requiring a continuing obligation that is not owned by that person, regardless of whether there is direct involvement or oversight by the department. This chapter also applies to local governmental units or economic development corporations that are required to take action under ch. NR 708 or persons receiving approval of a remedial action plan under ch. NR 722, when the department determines that notification is necessary.  
(2) In addition to being applicable to sites or facilities specified in sub. (1), this chapter also applies to the proposed closure of solid waste facilities where remedial action is required by the department.

**NR 725.03 Definitions.** The definitions in s. NR 700.03 apply to this chapter.

**NR 725.05 Situations where notification is required. (1) PERSONS REQUIRING NOTIFICATION.** Written notification shall be provided to the following parties if the property meets any of the criteria in sub. (2):  
(a) The owner of each property within or partially within the contamination site or facility boundaries, other than properties owned by the responsible party.  
(b) Occupants of those properties listed in par.(a), as appropriate.  
**Note:** Notification of occupants may be done by providing copies of the notification letter to occupants or to the property owner to distribute, by posting the notification letter at the property, or by other means, as long as written notification is included.  
(c) The clerk of the county, and town or village or city where a public street or highway right-of-way is located, and to the municipal department or state agency that is responsible for maintaining the public street or highway, and  
(d) The railroad that maintains the railroad right-of-way.  
**(2) SITUATIONS REQUIRING NOTIFICATION.** Written notification shall be provided in the following situations:  
(a) Groundwater contamination which attains or exceeds ch. NR 140 enforcement standards remains after completion of the remedial action,  
(b) Soil contamination which attains or exceeds ch. NR 720 residual contaminant levels remains after completion of the remedial action,  
(c) A monitoring well will not be abandoned upon completion of the remedial action because:  
1. The well was unable to be located.  
2. A property owner requested the responsible party not to abandon the well, to allow for continued monitoring by the property owner and the department has approved the request, or  
3. Continued monitoring of the well is required by the agency.  
(d) A property has been classified as industrial under ch. NR 720 and soil contamination on the property has only been remediated to the industrial residual contaminant levels.  
(e) A building or other structural impediment at a site or facility has prevented either the completion of an investigation to determine the degree and extent of contamination, or the completion of the remedial action.  
(f) Where there is residual soil contamination beneath a building or a cap, such as concrete or asphalt pavement, or composite cap, or within an engineered containment structure, that exceeds residual contaminant levels based on protection of groundwater as determined under ch. NR 720, which would pose a threat to groundwater if the building, cap or containment structure were removed.

(g) A soil cover, cap or engineered containment structure must be maintained in order to prevent direct contact with contaminated soil within 4 feet of the ground surface that exceeds residual contaminant levels as determined under ch. NR 720.

(h) A vapor mitigation system must be operated and maintained in order to limit or prevent vapor intrusion.

(i) Compounds of concern are still being used in facility operation and as a result the vapor intrusion pathway has not been fully evaluated.

(j) Residual contamination from volatile compounds exists on the property, which may pose the potential for vapor migration into a future building.

**Note:** Vapor mitigation or building control technologies may be needed to limit or prevent exposure in the future if a building is to be constructed, or if other land use changes or actions could result in a completed pathway. A completed pathway depends on the construction and use or occupancy of a building or structure and other exposure assumptions. NR 726 specifies closure conditions regarding use of building control technologies to limit or prevent future exposures.

(k) Site-specific vapor inhalation exposure assumptions are applied which would not be protective if future use of the property changes.

(L) Sites or facilities where the agency determines that there are site-specific circumstances, including but not limited to situations where contamination remains in media other than soil, groundwater or vapors, or exposure and migration pathways not otherwise addressed, that make a continuing obligation necessary to adequately protect human health, safety, welfare or the environment.

**NR 725.07 General notification requirements. (1) APPENDIX A LETTER.** The responsible party, or other party required to provide notification by the department, shall send a letter that contains the standard provisions in Appendix A. All notification letters shall also include the provisions about the applicable continuing obligations on the affected properties or rights-of-way. The closure-related paragraphs shall be altered to fit the situation.

**(2) NOTIFICATION METHOD.** Unless otherwise directed by the department, notification letters shall be sent via certified mail, return receipt requested, or priority mail with signature confirmation. If the letters are sent via priority mail with signature confirmation, the responsible party may use the signature waiver option if the responsible party has reason to believe that the owner of the property or other applicable party may refuse to sign for the letter.

**Note:** The department will not conduct a closure review until at least 30 days after the date on which the notification letter was received, in accordance with s. NR 726.13. Parties receiving the notification letter may notify the department within the 30 days to request additional time to finalize an agreement on continuing obligations, if needed.

**(3) NOTIFICATION OF THE DEPARTMENT OF TRANSPORTATION.** Notification letters for department of transportation rights-of-way shall be sent either electronically, or via certified mail, return receipt requested, or standard mail with use of a complete mailing address.

**Note:** Send notifications for DOT rights-of-way electronically to: DOTHazmatUnit@dot.wi.gov , or by mail to: Wis. DOT Bureau of Equity and Environmental Services, 4802 Sheboygan Ave. Room 451, PO Box 7965, Madison, WI 53707-7965. Include "Notification of Contamination" in the subject line of the e-mail. The Department of Transportation (DOT) sends a receipt electronically (e-mail).

**(4) FACTSHEETS. (a) Groundwater.** A department fact sheet that describes the use of natural attenuation as a final remedy, shall be enclosed with all letters that are sent to parties listed under s. NR 725.05(1) with ch. NR 140 groundwater standard exceedances, where natural attenuation is to be used as a final remedy.

**(b) Liability and responsibilities of off-source property owners.** A department fact sheet that describes the responsibilities and limits of liability of a property owner under s. 292.12 and 292.13, Stats., shall be enclosed with all letters that are sent to owners of properties, of sites or facilities meeting one or more of the conditions of sub. NR 725.05 (2), except for any property owned by the responsible party.

**Note:** Copies of department fact sheets may be obtained by accessing the following web site: [http://dnr.wi.gov/org/aw/rr/archives/pub\\_index.html](http://dnr.wi.gov/org/aw/rr/archives/pub_index.html) or from any regional office of the department, or by writing to the Department of Natural Resources, Bureau for Remediation and Redevelopment, P. O. Box 7921, Madison, Wisconsin 53707. The referenced fact sheets are RR 671 - "What Landowners Should Know: Information About Using Natural Attenuation To Clean Up Contaminated Groundwater" and RR 819 - "Continuing Obligations for Environmental Protection, Responsibilities of Wisconsin Property Owners".