



Wisconsin DNR Plant Recovery Initiative

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Background

The Wisconsin Department of Natural Resources (DNR) created the Wisconsin Plant Recovery Initiative (WPRI) to help communities and businesses expedite the cleanup and revitalization of industrial and/or commercial facilities that have recently shut their doors.

Like many states across the country, Wisconsin has witnessed a large number of business and plant closings in recent years. In addition to the impact of lost jobs, tax revenue and local business, a plant closing may also leave real or perceived environmental contamination that hinders any efforts to clean up and redevelop the property.

Under the Plant Recovery Initiative, the DNR wants to speed up the return of these facilities to productive use and encourage economic revitalization by offering a variety of cleanup and redevelopment tools. These tools include:

- DNR staff assistance on regulatory, environmental and financial issues;
- emergency assistance for any spills or contamination that presents an immediate threat to public health or the environment;
- assessment sub-grant awards and free contractor services as part of the WPRI Assessment Monies (WAM) to assess closing or closed plants;
- other state and federal environmental assessment and cleanup funds;
- liability exemptions and liability clarification letters for local governments and private parties; and

- technical oversight to ensure the proper cleanup to state standards of any contamination at shuttered properties.

The DNR's Remediation and Redevelopment (RR) Program oversees the cleanup of these properties, known as "brownfields," and will work with communities and businesses to utilize these tools at the front end of the process, when the facilities are initially closing. By addressing environmental issues early on, this initiative will help limit property tax losses, create significant savings in cleanup and redevelopment costs and limit future liability for public and private parties.

Each time a company announces a plant closing, the DNR will offer to work with company officials and the community affected by the closing, outline the company's responsibilities to safeguard public health and the environment and discuss the brownfield resources available to both parties to help assess, clean up and redevelop the property. Our goal is to meet with the company and comprehensively discuss the DNR obligations associated with air, water and land issues.

In addition, there are many businesses that have already closed their doors, and the DNR will utilize this initiative to address those properties as well.

Responsibilities

Cleanup Requirements

Wisconsin's Hazardous Substance Discharge Law, also known as the Spill Law (s. 292.11, Wis. Stats.), requires those who "cause, possess or control" a hazardous



substance release to take any actions necessary to “restore the environment to the extent practicable and minimize” any harmful effects from the release to the environment.

This law also requires those that “cause, possess or control” to notify the DNR immediately of any discharge to the environment.

Therefore, if a party owns a property that has a hazardous substance discharge, either from a company’s operations or from historical operations, the causer and owner are legally required to notify the state and to begin the response process.

These requirements also apply to new owners, so if you plan to sell your property, the prospective buyer will want to understand the property’s environmental conditions prior to purchase.

Waste Management Requirements

Company owners should also consider all requirements regarding solid and hazardous waste management at your plant.

Hazardous Waste. If your business will no longer generate or manage hazardous waste, it is very important to ensure proper compliance with state and federal laws. All equipment used to manage hazardous waste – piping, containers, tanks secondary containment facilities, etc. – must be decontaminated to eliminate the potential for discharges into the environment. All hazardous waste and clean-up residue must also be shipped off-site to an approved hazardous waste management facility.

Solid Waste. You should review any solid waste issues at your plant – such as a landfill license, for example. Generally, a solid waste license “travels with the property,” i.e. a new owner will need to comply with the conditions of that license.

You should also properly close all solid waste storage areas and dispose of all materials. This includes storage for foundry sand, slag or other industrial by-products. In

addition, any trash, such as paper, cardboard or garbage should be properly recycled or disposed of in an approved landfill.

If you have questions regarding any waste management issues, please contact the Waste Program person listed on page four of this fact sheet.

Other Requirements

Fuel Storage Tanks. All fuel storage tanks must be properly closed, either permanently or temporarily.

DNR Permits. Most environmental permits issued by the DNR – air permits, for example – contain certain closure requirements, including notification of the plant closing to the department. Companies should review any state permit(s) to understand closure requirements and conditions. Meeting any closure conditions will avoid non-compliance and possible enforcement actions.

If you have any questions about the closure conditions of your permit(s), please contact the appropriate program contact listed on page four of this fact sheet, if you are not sure which program to contact, contact the RR Program contact.

Wastewater & Other Water Issues. There may also be wastewater permits or other outstanding issues regarding water treatment at your facility that need review.

Sarbanes-Oxley Reporting and Accounting Standards. Recent changes in accounting and disclosure standards, including changes to asset retirement obligations and new corporate accountability regulations via the Sarbanes-Oxley Act, may obligate a company to report any cleanup costs for a contaminated property.

Resources

Green Team Meetings

The DNR’s Remediation and Redevelopment (RR) Program staff are willing to meet with communities and companies via our Green Team meetings to

discuss any issues that may arise from a closing/closed plant. We may also include other DNR, state or federal agency staff as needed. To schedule a Green Team meeting, please contact the RR Program person listed on page four of this fact sheet.

Environmental Assessments

The best way for a company to understand environmental conditions at a property (ies) is to conduct an environmental assessment or a compliance audit. During real estate transactions, realtors, lenders and prospective buyers generally require appropriate due diligence regarding environmental conditions at industrial/commercial facilities. Compliance audits help determine if all permit requirements are up to date and emissions controls and reporting are in order.

The DNR has federal funds as part of the WPRI Assessment Monies (WAM) to assess closed plants through awards to local governments and free contractor services to eligible businesses and local governments.

If a plant is closing/has closed, the sooner an environmental assessment is conducted, the more accurate an assessment can be obtained and the quicker resources can be accessed, which in turn expedites the cleanup and redevelopment of the facility.

For example, an environmental consultant hired by the company while the plant is still in operation can meet with current and past employees and managers, walk through the facility and review any pertinent information. However, it is much more challenging for someone conducting an assessment to get a true picture of the environmental conditions at a plant if the employees are gone, documents have been removed and the equipment has been sold off.

Liability Protections

As company officials determine what to do at a closing facility, they will need to consider liability and risk regarding environmental contamination.

As described above, Wisconsin law imposes liability on the owner of a property with environmental contamination. However, there are a number of liability protection and clarification tools available to manage and limit the environmental liability associated with a plant closure.

- *Voluntary Party Liability Exemption (VPLE)* – The VPLE is a process where parties can conduct an environmental investigation and cleanup of a property and then receive limits on their liability. The VPLE is available to anyone, including the party that caused the contamination, and is transferrable to new property owners, if the cleanup is completed and the DNR has issued a Certificate of Completion (COC).
- *General Liability Clarification Letter (GLC)* – A company may request the DNR clarify their environmental liability via a formal letter and fee. To make this request, please fill out the GLC form located at the following link: <http://dnr.wi.gov/files/PDF/forms/4400/4400-237.pdf>
- *Local Government Unit (LGU) Liability Exemption* – This exemption applies to a local government that acquires a contaminated property through several involuntary measures (e.g. tax delinquency, blight elimination, escheat). The exemption does not require a letter or certification from DNR and protects the local government from state spill and solid waste liability, as long as certain requirements are met. This does not apply at licensed solid waste sites.
- *Private Agreements/Contracts* – In many cases, buyers and sellers of properties with environmental issues will address their liabilities through a private agreement between the parties that often does not involve the DNR.
- *Environmental Insurance* – The DNR has developed the Wisconsin Brownfields Insurance Program (WBIP), an optional insurance program designed to help protect against unknown liability and remove barriers to redeveloping brownfields for developers, businesses

and local governments. In addition, there are many private insurance products, as well as historic general liability insurance, available to address liabilities associated with plant closures.

Financial Incentives

There are a number of state and federal financial incentive programs to aid in the assessment, cleanup and redevelopment of brownfields, including closing/closed industrial facilities. Eligibility requirements vary from program to program, and some financial programs are only available to local governments, though in many cases communities will partner with businesses on the cleanup and redevelopment.

- *WPRI Assessment Money (WAM)* – awards to local governments and free contractor services to assess closing or closed plants for eligible businesses and local governments.
- *Wisconsin Economic Development Corporation Brownfields Site Assessment Grant Program* – Available to local governments for removing containers, performing assessments and demolishing structures at brownfields.
- *DNR Ready for Reuse Loans and Grants* – Available to local governments for cleanup activities at brownfield projects considered “ready to go.”
- *Wisconsin Economic Development Corporation Brownfields Grants* – Available to both communities and private parties for cleanup of brownfield properties.
- *Tax Incentives* – A number of state and federal tax incentives exist for brownfield projects.
- *Federal Superfund Removal Program* – This program provides assistance with removal of most toxic materials at closing/closed plants, such as barrels of chemicals and other hazardous liquids.

To view a comprehensive listing of state and federal funding programs, please see our *Financial Resources Guide for Cleanup and Redevelopment (RR-539)* at the following link:

<http://dnr.wi.gov/topic/Brownfields/Financial.html>

For More Information

Please visit the DNR web site at the following link to learn more about the Wisconsin Plant Recovery Initiative:

<http://dnr.wi.gov/topic/brownfields/wpri.html>.

You can also contact the following DNR staff for specific WPRI questions.

- DNR Remediation and Redevelopment Program – **Tom Coogan**, 608-267-7560, thomas.coogan@wisconsin.gov.
- DNR Waste Management and Materials Program – **Ann Coakley**, 608-261-8449, ann.coakley@wisconsin.gov.
- DNR Air Management Program – **Andrew Stewart**, 608-264-8884, andrew.stewart@wisconsin.gov.
- DNR Drinking Water and Groundwater Program – **Jill Jonas**, 608-267-7545, jill.jonas@wisconsin.gov

This document may contain some information about certain state statutes and rules but does not necessarily include all of the details found in the statutes/rules. Readers should consult the actual language of the statutes/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.