

# Understanding Historic Spills

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A spill of any substance that adversely affects the environment or public health is a concern to the DNR, and specifically the RR Program.

The DNR has tracked spills of all kinds since 1978, when spill reporting became mandatory after passage of the Spill Law (originally enacted as s. 144.76, now s. 292, Wis. Stats.). Over the last 30 years, statutory and database changes have occurred that affect the way the agency currently labels and records spill incidents.

## What are Historic Spills?

In the 1990s, the DNR established a formal closure process under the NR 700 rule series in the Wisconsin Administrative Code. Also at this time, the DNR created the RR Program, and along with it the Bureau for Remediation and Tracking System (BRRTS), a database listing all contaminated sites, which includes all spill records dating back to 1978.

However, one of the differences

between older spills data (from 1978 to 1996) and more recent data is that these spills do not have an end date, or closure date. Therefore in 1996, the RR Program decided that these older spills would be listed in the BRRTS database as "historic."

The RR Program created the historic label to remind anyone using or viewing the database that these spills have not been through a formal closure evaluation process per Ch. NR 726, Wis. Adm. Code. It should be noted that the cleanup for pre-1996 historic spills were usually done according to standards in place at the time and, even under today's standards, are protective of public health and the environment.

Also in 1996, the Program decided to review all spills at the time of the spill response and cleanup and make a No Further Action (NFA) determination. A No Further Action determination means that, if the regional spill coordinator deemed the cleanup complete, the

spill was closed under NR 708.09, Wis. Adm. Code, and not under closure via NR 726. It would also be reclassified in the BRRTS database as an NFA.

If the spill coordinator determined that additional work was needed, the spill record was transferred to that area of the BRRTS database where sites/activities required follow-up by RR Program staff.

## Why is the List of Historic Spills Changing?

When consultants and others conduct site assessments or clean up work, often prior to property transfers, they routinely check the BRRTS database – which was placed on the Internet in 2000 as BRRTS on the Web – to search for contamination on or near the property they are working on. If they locate in BRRTS one or more historic spills that may be near the property in question, they will often call a regional spill coordinator for additional information.

When the regional spill coordinator receives these requests, he/she pulls the original spill report, provides a copy or any additional information and, if requested, makes a determination regarding closure.

Rather than continue this sporadic approach, the RR Program began a concerted effort in 2008 to review all historic spills and make a NFA determination under NR 708.08. When spills are reviewed and closed, the information in BRRTS is updated to reflect any changes that are made – e.g. removal of the Historic Spill tag and addition of the NFA date.

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As these older spills are reviewed and closed, the total number of spills with the historic label continues to decline. The ultimate goal is to review and close as many pre-1996 spills as possible.

### **What Additional Information Might Be Available for an Historic Spill That Doesn't Exist in BRRTS?**

In reviewing the historical spills data in BRRTS, RR staff have generally found that most of the locational information from the original report has been recorded. However, in many cases, only one of the response actions was recorded. Also, the spilled substance name did not always get transferred from the old spill database to BRRTS. However, you can still obtain this information from the original spill report by requesting a copy of the original report.

Please contact the spill coordinator or RR program assistant from that region, available on the RR Program's [spills web page](#).

### **Historic Spills Closure & Fee Questions & Answers**

*If, while doing a Phase I or Phase II assessment, I discover additional info which could lead to a historic spill being closed, should I provide the additional documentation to DNR?*

Yes. DNR will review the information and, if appropriate, close the spill in BRRTS. If you want written confirmation of the spill being closed, you may request a *General Liability Clarification Letter* from the RR Program. To request the letter, make a formal request using Form 4400-237 and submit the appropriate fee (\$500).

*Can I verbally request that a historical spill be reviewed for a No Further Action (NFA) determination? Would I have to pay a fee?*

Yes, a verbal request can be made to have a historical spill reviewed for a No Further Action determination. There is no fee required unless you want written confirmation via a No Further Action Letter. To make this request, please contact your [regional spill coordinator](#).

*If a determination is made that the historic spill cannot be closed, what should I do when conducting Phase I or Phase II assessments?*

Advise your client of the open spill. If closure is critical, contact the regional spill coordinator and ask what additional information might be needed to close it out.

*What are my options if there are several historical spills on single property and the responsible party (RP) wants closure?*

There are three options available:

- Option One – Submit any documentation regarding the property and verbally request that the spills be looked at for closure determination. As time and workload permits, the regional spill coordinator would review the available information, make a determination regarding closure and then, update BRRTS to reflect the changes.
- Option Two – For a more rapid response, submit what information you have and request a No Further Action letter with the required \$250 fee for each spill.
- Option Three – Submit available information plus a request and \$500 fee for technical assistance using [Form 4400-237](#)