



DNR REMEDIATION & REDEVELOPMENT PROGRAM GUIDANCE FOR PUBLIC COMMENT



The Remediation and Redevelopment Program is seeking input on the publication below. Email the staff contact listed below to share feedback.

DOCUMENT TRACKING NUMBER

RR-997

DOCUMENT TITLE

Guidance: Implementation of Wis. Admin. Code chs. NR 749 & NR 750 Fees

BACKGROUND/SUMMARY

This guidance is for responsible parties, environmental consultants and others who request technical assistance or oversight from the Wisconsin Department of Natural Resources (DNR) Remediation and Redevelopment (RR) Program.

PUBLIC COMMENT PERIOD CLOSE DATE

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Please send comments to dnrrrguidance@wisconsin.gov with subject line: "RR-997 Comments"

Guidance: Implementation of Wis. Admin. Code chs. NR 749 & NR 750 Fees

Purpose

This guidance is for responsible parties, environmental consultants and others who request technical assistance or oversight from the Wisconsin Department of Natural Resources (DNR) Remediation and Redevelopment (RR) Program.

Applicability

The guidance addresses fees for DNR oversight and assistance at sites regulated under Wis. Admin. Code chs. NR 700 – 799. Fees applicable to most cases are defined in Wis. Admin. Code ch. NR 749. Fees for Voluntary Party Liability Exemption (VPLE) cases are defined in Wis. Admin. Code ch. NR 750.

Introduction

Wisconsin Statutes (Wis. Stat.) ch. 292 allows the DNR to assess and collect fees for clarifying environmental liabilities and providing technical assistance. Wisconsin Administrative Code (Wis. Admin. Code) ch. NR 749 includes a table that lists the fees for common requests. The most current fee schedule can be found at docs.legis.wisconsin.gov/code/admin_code/nr/700/749.

Wis. Admin. Code § NR 749.04 states, “appropriate fees shall accompany all requests for specific department assistance.” This means most requests submitted to the DNR must be accompanied by the applicable fee. In addition, Wis. Admin. Code § NR 749.04(1) states, “these fees are not proratable or refundable.”

Wis. Stat. § 292.15(5) and Wis. Admin. Code ch. NR 750 allow the DNR to assess and collect fees from voluntary parties for oversight activities at properties enrolled in the VPLE program.

This guidance is intended to assist parties in determining the appropriate fee to accompany a request for DNR review and response under Wis. Admin. Code ch. NR 749. The DNR recommends contacting the RR project manager or program specialist before paying a fee for DNR review and response to ensure proper amount and method of payment.

Closure Fees

Wis. Admin. Code ch. NR 726 case closure requests require a \$1,050 review fee, plus applicable database fees if closure is approved with continuing obligations.

In rare instances, fees submitted with case closure submittals may be treated as requests for review of a site investigation and the submitted fee is not applied to the closure request.

This will be communicated directly with the responsible party. The requirement that a new case closure fee be paid with a resubmittal will be provided in the technical response letter.

Closure requests for sites previously denied closure by the Department of Safety and Professional Services (DSPS) or the former Department of Commerce (Commerce) must include all fees required for case closure by the DNR, as provided in Wis. Admin. Code ch. NR 749 (i.e., \$ 1050 review fee, plus applicable database fees).

The closure review fee does not apply to sites closed by the Department of Agriculture, Trade and Consumer Protection (DATCP); however, applicable database fees must be paid to the DNR.

No further action and no action requests

A “no further action” determination under Wis. Admin. Code ch. 708 may be documented in a letter from the DNR for \$350 (per Wis. Admin. Code § NR 749.04, Table 1(c)(1)) if requirements under Wis. Admin. Code § NR 708.19 are met.

A “no action required” determination under Wis. Admin Code ch. 716 may be provided with a DNR liability clarification letter for \$700 (per Wis. Admin. Code § NR 749.04, Table 1(c)(2)) if requirements under Wis. Admin. Code § 716.05(2)(a) are met. A “no action required” determination with no formal DNR response does not require a fee.

Database Fees

The DNR is authorized to charge database fees in accordance with Wis. Stat. §§ 292.12 and 292.57. Applicable database fees are outlined in Wis. Admin. Code § NR 749.04, Table 1(d). The maximum database fee that may apply to a request to review is \$650. In addition to database fees that may apply at the time of case closure, database fees may also apply at times other than closure, when continuing obligations are imposed.

Meetings with the DNR

Fee payment entitles the requestor to meet with the DNR to discuss a document or a DNR response. Stand-alone meetings may be requested for \$700, per Wis. Admin. Code § NR 749.04, Table 1(c)(13).

Combined Submittals

Requests that involve multiple documents and/or assistance, but only one DNR response, may be processed for one fee. The following table shows examples of fees for combined requests.

Site Investigation Report (SIR) submitted with Remedial Action Options Report (RAOR)/Remedial Design Report (RDR) (NR 716.17(3))	SIR = RAOR = RDR	\$1,050
Site Investigation Report (SIR) submitted with Technical Assistance (TA) request (NR 716.17(4))	SIR	\$1,050
Remedial Action Options Report (RAOR)/Remedial Design Report (RDR) submitted with Technical Assistance (TA) request (NR 724.05(2)(a))	RAOR = RDR	\$1,050
Remedial Design Report (RDR) submitted with Operations and Maintenance (O&M) plan and/or long-term monitoring plan (NR 724.05(2)(a))	RDR	\$1,050
Remedial Action Options Report (RAOR)/Remedial Design Report (RDR) submitted with Infiltration/Injection (I/I) application (NR 140.28(5)(e))	RAOR = RDR	\$1,050

The following requests necessitate a \$700 fee, even when part of a combined submittal:

- Liability clarification letter requests
- Request for approval to build on historical fill

For soil management fee submittals, see RR-060, *Management of Contaminated Soil and Other Solid Wastes Wis. Admin. Code §§ NR 718.12 and NR 718.15* (visit dnr.wi.gov, search "RR-060")

Requests for Continuing Obligation Modifications (Wis. Admin. Code § NR 749.04, Table 1(d)(5))

Requests to modify continuing obligations require a \$1,050 modification fee per request, in addition to other applicable database fees. Requests to extinguish deed restrictions require a \$1,050 modification fee if the site was never listed in the DNR database. Database fees may apply to a site listed on the DNR database if continuing obligations apply to the site after the deed restrictions are extinguished.

Enforcement

Wis. Stat. § 292.94 authorizes the DNR to assess and collect fees from persons that are subject to an order or other enforcement action. Fees are not charged for the enforcement conference. Fees will be applied pursuant to Wis. Admin. Code § NR 749.04(1), Table 1, for all reports or submittals identified in the enforcement conference summary.

For development of a negotiated agreement, the applicable review fee of \$1,400 is required per Wis. Admin. Code § NR 749.04, Table 1(a)(3). Fees may be charged for other

reports or activities identified in the negotiated agreement, or responsible parties may instead choose to pay the hourly fees under Wis. Admin. Code ch. 750. The fee option selected should be identified in the negotiated agreement and agreed upon by both parties.

State and Federal Agency Sites

When state or federal agencies provide direct funding for permanent or limited term employees, either through service agreements or cooperative agreements, the DNR does not charge fees for project oversight under Wis. Admin. Code § NR 749.05. When a cooperative agreement is not in place or direct funding is not provided by state or federal agencies, all applicable fees under Wis. Admin Code ch. NR 749 must be paid.

DNR Program-Specific Fees

Dry Cleaner Environmental Response Fund (DERF) sites

Submittals for DERF-eligible sites are typically not charged a technical assistance fee, as staff review time is covered by the dry cleaner fund. Instances when fees are required include when:

- the \$500,000 reimbursement cap is reached;
- the investigation and/or cleanup is paid by insurance;
- the case is subject to enforcement.

A Wis. Admin. Code ch. 169 fee waiver is granted for submittals of site investigation workplans, interim action reports and site investigation reports at DERF sites. Fees are also not charged for review and comment on remedial action plans or DERF reimbursement applications.

Voluntary Party Liability Exemption (VPLE) program

Time is billed to voluntary parties on an hourly basis for oversight of VPLE projects that have not yet received a Certificate of Completion (COC), in accordance with Wis. Admin. Code ch. NR 750. The current fee rate for VPLE oversight can be found at dnr.wi.gov, search "VPLE."

Wis. Admin. Code § NR 749.02 authorizes the DNR to charge the following fees at VPLE properties and sites:

- database fees for each site receiving closure at the VPLE property;
- database fees for each continuing obligation requested prior to the COC;
- when a requestor is not the voluntary party, such as a prospective purchaser.

Applicable Wis. Admin. Code ch. 749 fees apply after issuance of a COC.

State Lead Projects

All applicable fees (technical review, closure and database fees) are covered by staff timecoding to the specific site. Costs recovered per Wis. Stat. § 292.31(8)(d) are deposited into the program revenue or fee account.

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