WISCONSIN PETROLEUM ENVIRONMENTAL CLEANUP FUND (PECFA) REIMBURSEMENT PROGRAM

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Usual and Customary Cost Schedule (UCCS) #17

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INTRODUCTION

STATUTORY AUTHORITY

In accordance with s. 292.63 (4) (cm), Stats., the Wisconsin Petroleum Environmental Cleanup Fund program (PECFA) has established a Usual and Customary Cost Schedule (reimbursement schedule) for common tasks associated with the investigation and cleanup of eligible petroleum contamination sites. The purpose of this document is to provide instructions for the use of and specifications for the reimbursement schedule.

MAXIMUM REIMBURSEMENT

The Usual and Customary Cost Schedule (UCCS) is not intended to set pricing for specific tasks or to eliminate the element of competition for the Petroleum Storage Tank cleanup industry. It does, however, reflect the maximum amount that PECFA will reimburse for the environmental tasks listed on the UCCS. PECFA will reimburse the amount invoiced to the claimant for a particular task or activity, or the actual costs that a claimant incurs for tasks or activities they perform, or the UCCS reimbursement maximum for that task or activity, whichever is less, except where higher costs for a task or activity that have been submitted to and approved by the department prior to incurring the costs. PECFA will only reimburse for tasks and activities that appear on the schedule or that have been otherwise approved by the department. The UCCS does not apply to work for which a reimbursement cap has been determined through public bidding.

BORINGS AND ABANDONMENTS

In general, when advancing boreholes (includes hand-augered holes) the borehole log must include a description of every material (this includes surface material such as grass, soil, concrete, asphalt, etc.) encountered from ground surface to the bottom of the boring. There is one exception to this requirement - groundwater profile sampling (Direct Push activity DP15). Groundwater profile bore hole logs should show total depth, depth to water, and any unusual circumstances encountered during borehole advancement or groundwater sample collection. Special circumstances should also be noted on the borehole log, such as concrete penetration, refusal, water level, field ionization detector readings, sample interval collected, etc.).

In general, well and borehole abandonment forms must document the material(s) used to abandon the well or bore-hole from the bottom of the well or bore-hole to ground surface. If the well abandonment procedure includes over-drilling this must also be documented on the DNR abandonment form under item 5 (Material Used To Fill Well/Borehole) or item 6 (Comments). Abandonment forms must also be completed for hand-augered bore holes.

MOBILIZATION/DEMOBILIZATION

Mobilization/demobilization (mob/demob) tasks and activities will be reimbursed on a per- PECFA site basis (not per occurrence). A consultant and/or commodity service primary mob/demob has been assigned to Task 1, 3, 4, 8, 12, 13a, 13b, 13c, 14, 16, 17, 19, 24 and 25. Not every Task or Activity has a primary mob/demob. There is also an incremental mob/demob (Task 34). This incremental mob/demob can only be applied to Tasks or activities for which there is a primary mob/demob.

General usage descriptions are provided in the following two paragraphs - Consultant and Commodity Services. For specific mob/demob usage see individual task specifications as well as the U & C cost schedule.

Consultant Services

When a field task is performed at a PECFA site, then the consultant primary mob/demob activity associated with that task is applicable. If a task has not been assigned a primary mob/demob activity, then that task must be conducted concurrently with a task that has been assigned a primary mob/demob activity.

When two or more field tasks will be performed at the same PECFA site, on the same day, a primary mob/demob from one of those tasks can be applied. The consultant incremental mob/demob (TASK 34) can be applied to any of the additional tasks so long as they have an assigned primary mob/demob, For example, if Task 16, 17 and 18 were all performed at the same site on the same day, then the following would be true:

- The larger (Task 16 mob/demob) of the two primary mob/demobs (16 and 17) could be applied, and
- The consultant incremental mob/demob (Task 34) could be applied to Task 17 since it has an assigned primary mob/demob; however, it could not be applied to Task 18 since Task 18 does not have an assigned primary mob/demob.

Only one primary mob/demob may be declared per site per field event. Additionally, more than one consultant primary mob/demob may be declared in a day when UCCS tasks are conducted at two or more PECFA sites in a day. For example, if one UCCS task or activity is conducted at each of three PECFA sites on the same day, then three consultant primary mob/demobs could be charged, i.e., one for each site.

Commodity Services

Only one primary mob/demob may be utilized per site per field event. When one task is performed at a site, then the commodity service primary mob/demob associated with that task is applicable. In addition, more than one commodity service primary mob/demob may be declared in a day when UCCS tasks are conducted at two or more PECFA sites in a day. For example, if a UCCS task is conducted at each of three PECFA sites on the same day, then three commodity service mob/demobs could be charged, i.e., one for each site.

REPORT PREPARATION

Reimbursement maximums for report preparation tasks were developed with the following expectations. In general, current word processing and computerized drafting technology make it possible to retain copies of data, reports, tables, maps, drawings, etc. It is the department's expectation that all data, reports, tables, maps, drawings, etc. generated during a PECFA project, will be saved electronically. The department expects that these electronically saved documents will be used in the development of subsequent documents, reports, tables, maps, drawings, etc. This will reduce the time, effort and cost required to generate a document.

In order to receive the maximum reimbursement for work plans and site investigation reports their format and content must conform to the requirements set forth in s. NR 716.15. Further, requests for site closure must be included in the SI report (Task 22 or 23) if, at the successful completion of the site investigation, closure is the appropriate recommendation. When a closure request is to be included in a SI report (may include, but is not limited to, sites closing under s. NR 746.07), only the cost to prepare the SI report (Task 22 or 23) is eligible. In such cases, the U & C cost for a closure request (Task 5) cannot also be applied. However, in addition to the SI report, incremental costs for LNAPL removal reporting and GIS packet preparation and submittal under Task 5 are eligible but only if applicable.

REIMBURSEMENT SCHEDULE ADJUSTMENTS/CHANGES

The usual & customary schedule will be reviewed as specified in s. NR 747.325 (2). Reimbursement maximums, labor rates and hours may be adjusted and tasks added and/or deleted. Any or all of the following may be used to effect adjustments to the UCCS:

- Index approach as specified by the department (Based on changes in the gross domestic product)
- Cost data compiled from public bidding
- U & C Schedule Review Committee (will be comprised of PECFA staff and external stake holders)
- Cost data compiled from UCCS exemptions (variance process)
- Annual cost and labor surveys
- RS Means Environmental Cost Data

LABOR RATES

Labor rates include the cost of equipment and supplies used to complete office and field tasks and which are not included on the usual and customary equipment schedule. Separate costs for field and office equipment and supplies that do not appear on the usual and customary equipment schedule are not reimbursable.

Reimbursement is based on the maximum rate allowed for a task, not the rate of the individuals performing the work. For example, the maximum reimbursement rate for performing monitoring well sampling activities is an amount that coincides with the Field Technician labor rate. There is no restriction against an individual with a higher reimbursable rate performing the task. (In other words, any individual that qualifies to perform a given task may perform that task; however the reimbursement maximum will be based on the unit rate as established by the Field Technician labor rate for the task, not the labor rate of the individual actually performing the work.)

Owners/operators who are or have personnel qualified to perform any of the tasks defined herein, and who use their employees to perform these tasks will only be reimbursed for their cost to perform the task, i.e. s. NR 747.30 (1) (e) 4. applies.

The FIELD PROFESSIONAL, STAFF PROFESSIONAL and SENIOR PROFESSIONAL labor categories include the following disciplines: Hydrogeologist, Geologist, Soil Scientist and Engineer.

SPECIFICATIONS

1. GROUNDWATER SAMPLING

This task consists of sampling of all monitoring wells and potable wells regardless of depth, diameter, analytical parameters, etc. It includes, but is not limited to, the measurement of static water levels, purge volume calculations and decontamination of equipment. It also includes monitoring well maintenance (e.g. bentonite/ice/soil clean-out from well vault, rethread mounting bolts, etc.), project management to coordinate this task and the personnel to manage laboratory services such as: chain of custody, sample preparation, sample shipping, and QA/QC samples. It will also include the in-field measurement of the following field physical parameters: pH, conductivity, reduction/oxidation (REDOX), dissolved oxygen (DO) and temperature.

A separate unit rate, GS20, for water level elevation measurements is provided on a per-well basis for wells

that are not being sampled during a sampling event (it is not to be applied as an incremental amount to the sample collection unit rate). This activity, when warranted, must be conducted concurrent with a groundwater sample collection event.

Two incremental unit rates, groundwater sample activity GS10 and GS15, provide labor costs to collect and, when necessary, filter groundwater samples that require laboratory analysis for geochemical natural attenuation parameters (such as nitrate, manganese, ferrous iron, sulfate, methane and alkalinity) and the metals, cadmium and lead, respectively. These activities specifically include the cost of groundwater filtering equipment (filter apparatus and filters) **for those geochemical NA parameters that require filtering. GS10 and GS15 can be applied on a per-well basis for those wells that require this special sampling**. **They are to be applied as an incremental amount to the sample collection (GS05) unit rate**[1] .There is no separate mob/demob for this sampling, therefore, these activities, when warranted, must be conducted concurrent with a groundwater sample collection event.

A separate incremental unit rate, GS30, for the abandonment of temporary wells that are installed under TASK 12, activity DP75, has been provided on a per-well basis. A separate trip and mob/demob (GS25) to abandon these temporary wells will not be allowed. This abandonment activity is to be conducted concurrent with a groundwater sampling event (GS05) which includes the final groundwater sample-collection event for the temporary well.

This task is limited to no more frequently than once every three months (quarterly).

2. ANNUAL GROUNDWATER MONITORING REPORT

This task consists of labor and equipment, material and supply costs to complete the preparation and submittal of an annual groundwater monitoring (DNR Form 4400-194) report as indicated in NR 724.13(3) (e) for sites with passive remediation systems. The department expects this task to include all activities to create a report that documents data collection and analysis, and that draws conclusions and makes recommendations for all activities completed during that phase of work.

This task will be reimbursed for a complete report (1 per year). Additional costs to remedy omissions or corrections for this document are not eligible.

Note: A larger reimbursement maximum, AGMR10, is available if LNAPL removal is conducted concurrently with
groundwater sampling. This is not an incremental cost to AGMR05.

3. LNAPL ASSESSMENT AND REMOVAL

This task is comprised of Activities LAR05, LAR06 and LAR10. These activities include labor, equipment and supplies to sample and remove LNAPL from any well, regardless of depth or diameter. It includes, but is not limited to, the measurement of LNAPL thickness, recording of water level and collection of LNAPL samples for laboratory analysis. (For a more complete description of LNAPL assessment requirements see ASSESSMENT GUIDANCE FOR SITES WITH RESIDUAL WEATHERED PRODUCT, RR-787). It also includes project management time to coordinate this task and the personnel to manage waste.

[1] 1 Although DO is typically measured during every groundwater sampling event (primarily for groundwater purge stabilization evaluation) the department will only reimburse for its measurement as a natural attenuation parameter under Activity GS 10 once per year. GS10 includes labor costs to measure DO and REDOX as NA parameters and for collecting and filtering samples, as appropriate, of the other recommended NA parameters (nitrate, manganese, iron, sulfate, methane and alkalinity). It also includes filter equipment and supply costs for those samples that require filtering

Activity LAR06 can only be utilized one time per site unless more are approved by the department. Departmental notification and approval is required prior to commencing additional LAR06 activities. It is for the collection of weathered free product for laboratory analysis of physical properties (LFPS01). The department prefers that this activity be performed in conjunction with a scheduled groundwater sampling activity (Task 34 – incremental mob/demob can be utilized in this situation); however, should this not be possible this activity can be conducted as a one-time independent event. Activity LAR10 (Mob/demob) is reserved for this independent event.

Activity LAR05 is specific for the removal of weathered free product utilizing passive abatement techniques. It is to be conducted concurrent with another TASK or activity LAR06. Passive LNAPL remediation techniques generally include hand bailing, in-well absorbents and collector canisters. In general, passive LNAPL remediation provides little to no benefit relative to the volume of LNAPL present, and shall be considered an ineffective remedy.

As such, following the site investigation phase of work, which can include passive recovery activities, additional approvals for further passive abatement shall not be considered except when conducted concurrent with routine monitoring for natural attenuation. That is to say, LAR05 can be performed no more frequently than quarterly.

Passive LNAPL removal is to be conducted concurrently with groundwater sampling. In such cases only the following activities are applicable. One additional passive removal (LAR05) can be conducted if LNAPL collection (LAR06) is being conducted as a separate event.

A separate incremental reimbursement rate (TASK 5, Activity CR10) has been established for a one-time LNAPL assessment report. Departmental notification and approval is required prior to commencing this activity.

4. WASTE DISPOSAL

Consultant Services

This task consists of labor to coordinate the disposal of waste (contaminated soil, groundwater or LNAPL). It includes waste characterization, preparation of appropriate forms and coordination of subcontractor removal activities. The coordination activity must be contemporaneous with the commodity disposal activity. It is required that all like waste (same matrix) be disposed during an individual mobilization.

Commodity Services

This task consists of personnel and supplies for the disposal of waste (contaminated soil, contaminated groundwater or LNAPL). It includes labor and completion of appropriate forms. There are no mobilization frequency restrictions (see introductory mob/demob language) for this task. However, it is required that all like stored waste (same matrix) be disposed during an individual mobilization.

Prior department review and approval is required if a different disposal method (i.e. other than drums) is to be used. For example, the disposal of a pre-existing soil stockpile requires prior department approval.

Disposal documentation (i.e. receipt, discharge permit, etc.) must be provided, especially when Activity WD17 (Landfill Environmental Fee) is utilized. Actual landfill disposal costs will not be reimbursed without proof of actual cost.

This task can be completed by either a consultant or a third-party commodity service provider.

5. CLOSURE REQUEST

This task consists of activities for the preparation and submittal of closure forms, closure narrative, appropriate notifications and closure justification, for requests made at the conclusion of remediation as required by ch. NR 726. This submittal reimbursement maximum does not include the GIS Packet reimbursement maximum.

A separate reimbursement rate (CR10) has been established for a one-time LNAPL assessment report. It is applicable if closure is being sought when residual LNAPL is present, or as a separate reporting activity, if prior department approval is granted. Note that if CR10 is a separate report, the reimbursement rate is not incremental, rather it is the maximum reimbursement rate for the stand-alone report This incremental reimbursement is only applicable once per site. This includes, but is not limited to estimating the in-place residual LNAPL volume (in part, by using a quantitative determination of soil type), determining quantitative LNAPL fluid properties, reiterating the dissolved groundwater plume dynamics, summarizing LNAPL thickness measurements and recoveries to date, discussing the relative mobility of the residual LNAPL, and discussing potential remedial alternatives and costs.

Separate incremental reimbursement rates are included for GIS packets - One for the source property and one for each off-source property.

This task is limited to no more frequently than once every 12 months. If closure is sought concurrent, i.e. the final recommendation is for closure, with task 22 (Soil Investigation Report) or task 23 (Soil and Groundwater Investigation Report) this cost item is not also eligible with the exception of the incremental cost for LNAPL removal reporting and GIS packet preparation and submittal.

This task will be reimbursed for a complete request only. Additional costs to remedy omissions or corrections for this document are not eligible. In order to receive the maximum reimbursement for this task its format and content must conform to the requirements set forth in s. NR 726.

6. LETTER REPORT/ADDENDUM

This task will include personnel to prepare and submit a letter report. In order for reimbursement to be approved for this activity it must be requested by the agency(s) and the document must present new data collection results e.g. a follow-up to an initial site investigation report (SIR) or closure request that has been submitted on a previous date but not approved. This includes, but is not limited to, providing updated data tables, figures, and conclusions. This activity may also include revisions of the GIS packet based on newly collected data.

This task may not be used to remedy omissions or corrections for the following tasks: annual groundwater monitoring report, closure request, letter report/addendum, regulatory correspondence, site investigation report, investigation work plan preparation, soils and water investigation report, cap maintenance plans, change order requests and claim submittal.

This task will be reimbursed for a complete report only. Additional costs to remedy omissions or corrections for this document are not eligible. In order to receive the maximum reimbursement for this task its format and content must conform to the appropriate requirements set forth in s. NR 716.15.

7. REGULATORY CORRESPONDENCE

This task includes labor to prepare and submit status reports, periodic reporting, teleconferences, requests for

copies of existing documentation and general written correspondence to responsible party and regulatory agency(s). This reimbursement maximum is limited to 12 per 12-month period.

With prior department approval this task can also be used to review files for "stalled sites"[2]. It can only be used once per site and the review must take place in a DNR office.

Task 7 can also be utilized in conjunction with TASK 20 when a government entity, such as a municipality, state, city, Township, county, etc., requires written notification of the installation of a soil boring or monitoring-well or requires annual renewal of the permit but does **not require a permit fee and does not issue a formal permit (see TASK 20 for specifics).**

This task may not be used to remedy omissions or corrections for the following tasks: annual groundwater monitoring report, closure request, letter report/addendum, regulatory correspondence, site investigation report, investigation work plan preparation, soils and water investigation report, cap maintenance plans, change order requests and claim submittals.

(Note: Twelve (12) regulatory correspondences are eligible for the period of time bounded by May 1, 2006 (rule effective date) to December 31, 2006. Subsequent to this initial period January 1 will become the reference date for determining the 12-month period for each succeeding year. For example, the next 12 month period will run from January 1, 2007 to December 31, 2007 and so on. Unused correspondences do not carry-over to the next 12-month period.

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[2] A "stalled" site is a PECFA eligible site that has made little to no progress towards closure for a reasonable period of time (to be determined by the department) from the last date for which active progress can be documented.

NR 716.07 Site Investigation Scoping. Prior to conducting the field component of a site investigation required under s. NR 716.05, responsible parties shall evaluate all of the following relevant items, considering the location of the site or facility, to ensure that the scope and detail of the field investigation are appropriate to the complexity of the site or facility: (1) History of the site or facility, including industrial, commercial or other land uses that may have been associated with one or more hazardous substance discharges at the site or facility. (2) Knowledge of the type of contamination and the amount of the contamination. (3) History of previous hazardous substance discharges or environmental pollution. (4) Environmental media affected or potentially affected by the contamination. (5) Location of the site or facility, and its proximity to other sources of contamination. (6) Need for permission from property owners to allow access to the site or facility and to adjacent or nearby properties. (7) Potential or known impacts to receptors, including public and private water supplies; buildings and other cultural features; and utilities or other subsurface improvements. This evaluation shall include mapping the location of all water supply wells within a 1,200− foot radius of the outermost edge of contamination. (8) Potential for impacts to any of the following: (b) Species, habitat or ecosystems sensitive to the contamination. (c) Wetlands, especially those in areas of special natural resource interest as designated in s. NR 103.04. (d) Outstanding resource waters and exceptional resource waters as defined in ss. NR 102.10 and 102.11.

NR 716.09 Site investigation work plan. (1) GENERAL. Unless otherwise directed by the department, in cases where a site investigation in required under s. NR 716.05, responsible parties shall submit a work plan to the department describing the intended scope and conduct of a field investigation if the site or facility is classified as complex under s. NR 700.09 (2) or if the responsible party chooses to proceed with the complex site process under s. NR 700.11 (2). (2) CONTENTS. The work plan shall include all of the following information, unless otherwise directed by the department: (a) Site name, address, and location by quarter−quarter section, township, range and county, or a more precise location description if necessary to adequately define the location of the site or facility. (b) Name and address of the responsible party or parties, and name and address of all consultants or contractors involved in the response action. (c) Site location map, consisting of the applicable portion of a 1:24,000−scale topographic quadrangle published by the United States geological survey with the name of the quadrangle indicated, and a site layout map to approximate scale depicting the layout of buildings, roads, discharge location and other relevant features of the site. (d) Information gathered during scoping of the project, including the applicable items in s. NR 716.07. (e) Basic information on the physiographical and geological setting of the site necessary to choose sampling methods and locations, including: 1. The existing topography, including prominent topographic features. 2. The surface water drainage patterns and significant hydrologic features, such as surface waters, springs, surface water drainage basins, divides, wetlands and whether the site lies within a floodplain or floodway. 3. Texture and classification of surficial soils. 4. General nature and distribution of geologic materials, including the thickness and type of unconsolidated materials and the type and nature of bedrock. 5. General hydrogeologic information. 6. Potential hazardous substance migration pathways. (f) Sampling and analysis strategy to be used during the field investigation, including: 1. A description of the investigative techniques to be used to characterize the site or facility. 2. Identification on a site layout map of the locations, both planimetric and vertical, from which samples of environmental media will be obtained. Where locations cannot be specified in advance, the work plan shall include a description of the strategy to be used for determining these locations in the field. 3. A description of sampling methods to be used, including methods for preserving and delivering samples. 4. An itemization of the parameters for which samples will be analyzed, as well as the analytical methods to be used and their method detection limits. 5. A description of quality control and quality assurance procedures to be used, including the items specified in s. NR 716.13. 6. A description of the procedures to be used to prevent cross− contamination among samples. 7. A description of the type of investigative wastes that will be generated during the site investigation and how they will be collected, stored, transported and treated or disposed of. 8. A discussion of how the sampling and analysis results will be related to results of any previous investigations at the site or facility, and how the results will be used to determine the degree and extent of the contamination and the selection of a remedial action option including, where appropriate, natural biodegradation. (g) A description of other procedures to be used for site management, including erosion control and repair of soil or ground disturbance. (h) A schedule for conducting the field investigation and reporting the results to the department.

8. WELL ABANDONMENT

These activities must conform to the well abandonment requirements detailed in s. NR 141.25. It is required that all wells be abandoned during an individual mobilization. This task can be completed by either a consultant or a third-party commodity service provider.

If a consultant elects to complete the abandonments then only the consultant activities can be applied. If a commodity service provider is selected to complete the abandonments, then commodity service provider activities WAB35 and as appropriate WAB40, WAB45 or WAB50, and only consultant activity WAB05 can be applied.

There are maximum reimbursement rates for 2" (WAB40), 4" (WAB45) and 6" (WAB50) wells.

If an overnight stay is required to complete abandonment activities then Task 31 (Overnight Per Diem) can be applied by the consultant and Task 15 -Activity MDT25 (Commodity Service Provider Per Diem) can be applied by a commodity service provider should it be necessary to have a commodity service provider perform the abandonments. (Note: The use of Activity MDT25 is limited to two (2) per event. In order to be eligible for two the commodity service provider crew must be comprised of a two-man crew.

Department notification and approval is required prior to commencing the following special abandonment activities: circumstances such as deep wells, wells that must be over-drilled or wells/sumps with diameters greater than six (6) inches.

Consultant Services

This task consists of personnel, equipment and supplies to coordinate and perform the abandonment of monitoring and remediation wells (e.g. SVE, groundwater extraction, etc.). It includes preparation of appropriate forms and coordination of subcontractor abandonment activities. If a commodity service provider is selected to perform the abandonments, then the consultant can only utilize consultant activity WAB05 (coordination). In addition, the coordination activity must be contemporaneous with the commodity service abandonment activity.

Commodity Services

This task consists of labor, equipment (Task 15 items/activities are not to be used for this task with the exception noted above for per diem) and supplies to abandon monitoring and remediation wells and to complete Department of Natural Resources (WDNR) abandonment form (Form 3300-5).

9. INVESTIGATION WORKPLAN PREPARATION

This task will include document preparation costs, which will include, but is not limited to, site background review, investigation scope of services, health and safety plan, tables, diagrams, maps, and sampling protocols. Only one work plan will be reimbursed per site (source property). This document is to contain detailed descriptions of the site and the activities that are to take place. The format and content of this report must conform to chs. NR 716.07 and 716.09.

This task will be reimbursed for a complete report only. Addition al costs to remedy omissions or corrections for this document are not eligible. In order to receive the maximum reimbursement for this task its format and

content must conform to the requirements set forth in chs. NR 716.07 and 716.09[3].

10. INITIAL SITE SURVEY – FEATURES AND WELL ELEVATIONS

The purpose of this task is to conduct an initial survey to collect site feature location data and existing monitoring well and recovery well location and elevation data. This location and elevation data is to be used for the subsequent preparation of a report quality base map to be used in the development of maps, cross-sections and drawings for future report preparation. Only one initial site survey will be reimbursed for each site (source property) that is entering the initial site investigation phase of services. Beginning with this version of the U & C Schedule a second "Initial Site Survey" will be reimbursed for those sites that the department has identified as "stalled". A "stalled" site is a PECFA eligible site that has made little to no progress towards closure for a reasonable period of time (to be determined by the department) from the last date for which active progress can be documented.

Written Department approval is required prior to performing any services associated with a second site survey. Reimbursement for these services may only be awarded if the written approval documentation and the lack of active progress documentation are included in the claim for which a reimbursement request is made for a second survey.

This reimbursement maximum is not intended for a certified survey. However, surveying to a National Geodetic Survey datum (USGS datum) is still a ch. NR 716 requirement. This task can be completed by either a

[3] NR 716.07 Site Investigation Scoping. Prior to conducting the field component of a site investigation required under s. NR 716.05, responsible parties shall evaluate all of the following relevant items, considering the location of the site or facility, to ensure that the scope and detail of the field investigation are appropriate to the complexity of the site or facility: (1) History of the site or facility, including industrial, commercial or other land uses that may have been associated with one or more hazardous substance discharges at the site or facility. (2) Knowledge of the type of contamination and the amount of the contamination. (3) History of previous hazardous substance discharges or environmental pollution. (4) Environmental media affected or potentially affected by the contamination. (5) Location of the site or facility, and its proximity to other sources of contamination. (6) Need for permission from property owners to allow access to the site or facility and to adjacent or nearby properties. (7) Potential or known impacts to receptors, including public and private water supplies; buildings and other cultural features; and utilities or other subsurface improvements. This evaluation shall include mapping the location of all water supply wells within a 1,200− foot radius of the outermost edge of contamination. (8) Potential for impacts to any of the following: (b) Species, habitat or ecosystems sensitive to the contamination. (c) Wetlands, especially those in areas of special natural resource interest as designated in s. NR 103.04. (d) Outstanding resource waters and exceptional resource waters as defined in ss. NR 102.10 and 102.11.

NR 716.09 Site investigation work plan. (1) GENERAL. Unless otherwise directed by the department, in cases where a site investigation in required under s. NR 716.05, responsible parties shall submit a work plan to the department describing the intended scope and conduct of a field investigation if the site or facility is classified as complex under s. NR 700.09 (2) or if the responsible party chooses to proceed with the complex site process under s. NR 700.11 (2). (2) CONTENTS. The work plan shall include all of the following information, unless otherwise directed by the department: (a) Site name, address, and location by quarter−quarter section, township, range and county, or a more precise location description if necessary to adequately define the location of the site or facility. (b) Name and address of the responsible party or parties, and name and address of all consultants or contractors involved in the response action. (c) Site location map, consisting of the applicable portion of a 1:24,000−scale topographic quadrangle published by the United States geological survey with the name of the quadrangle indicated, and a site layout map to approximate scale depicting the layout of buildings, roads, discharge location and other relevant features of the site. (d) Information gathered during scoping of the project, including the applicable items in s. NR 716.07. (e) Basic information on the physiographical and geological setting of the site necessary to choose sampling methods and locations, including: 1. The existing topography, including prominent topographic features. 2. The surface water drainage patterns and significant hydrologic features, such as surface waters, springs, surface water drainage basins, divides, wetlands and whether the site lies within a floodplain or floodway. 3. Texture and classification of surficial soils. 4. General nature and distribution of geologic materials, including the thickness and type of unconsolidated materials and the type and nature of bedrock. 5. General hydrogeologic information. 6. Potential hazardous substance migration pathways. (f) Sampling and analysis strategy to be used during the field investigation, including: 1. A description of the investigative techniques to be used to characterize the site or facility. 2. Identification on a site layout map of the locations, both planimetric and vertical, from which samples of environmental media will be obtained. Where locations cannot be specified in advance, the work plan shall include a description of the strategy to be used for determining these locations in the field. 3. A description of sampling methods to be used, including methods for preserving and delivering samples. 4. An itemization of the parameters for which samples will be analyzed, as well as the analytical methods to be used and their method detection limits. 5. A description of quality control and quality assurance procedures to be used, including the items specified in s. NR 716.13. 6. A description of the procedures to be used to prevent cross− contamination among samples. 7. A description of the type of investigative wastes that will be generated during the site investigation and how they will be collected, stored, transported and treated or disposed of. 8. A discussion of how the sampling and analysis results will be related to results of any previous investigations at the site or facility, and how the results will be used to determine the degree and extent of the contamination and the selection of a remedial action option including, where appropriate, natural biodegradation. (g) A description of other procedures to be used for site management, including erosion control and repair of soil or ground disturbance. (h) A schedule for conducting the field investigation and reporting the results to the department.

consultant or a third-party commodity service provider. All services, i.e. consultant as well as commodity, can be performed by the consultant should they elect to perform this task.

Consultant Services

Activity IS05 consists of labor to coordinate a survey for location and/or elevation of site features, monitoring wells and recovery wells.

Activity IS10 consists of labor and equipment to perform subsequent survey events. A mob/demob is not included with this event as it is expected to be conducted concurrent with another field task. It will be reimbursed on a per-well/borehole basis **for new wells or soil borings only.**

Commodity Services

Activity IS15 consists of labor, equipment and supplies to conduct an initial survey for location and elevation (where appropriate) of site features, monitoring wells and recovery wells. The maximum reimbursement rate for this activity includes materials and mobilization/demobilization costs. This reimbursement maximum is not intended for a certified survey. However, surveying to a National Geodetic Survey datum (USGS datum) is still a ch. NR 716 requirement.

11. POTABLE WELL FIELD RECONNAISSANCE

This task consists of the field confirmation of existing potable water supplies (wells or springs) identified in the work plan. This reconnaissance activity includes, but is not limited to, acquisition of the following information: well ownership, well location, well completion data, well use, reported (not measured) depth to water, etc. Only one reconnaissance will be reimbursed per site (source property). There is no mob/demob associated with this task, as it is to be conducted concurrent with another field task.

12. DIRECT PUSH

For sites subject to public bidding, (estimated or actual cost, including interest, will exceed $60,000), this task is limited to 40 feet total drilling (on a site or project basis) without prior department approval. In general, a DNR soil borehole log is to be completed for each and every borehole (see BORINGS AND ABANDONMENTS in the Introduction for details) and a well construction and development form for each well that is installed.

This task can be completed by either a consultant or a third-party commodity service provider.

Consultant Services

Activities DP05 and DP10 consist of labor, equipment and supplies to oversee direct push soil boring advancement and to collect soil and/or groundwater samples. The horizontal location of each borehole is to be measured and DNR soil borehole logs must be completed by appropriate consulting firm employees and signed by the consulting firm employee that logged the borehole.

The reimbursement maximum for this task does not include the cost for soil and/or groundwater laboratory analysis (see Task 33). In order for the oversight unit rate (DP05 and DP10) to qualify, a continuous soil profile must be collected.

A separate per-sample unit rate (DP20) for the oversight and collection (grab samples) of groundwater samples during activities DP05 and/or DP10 is provided. For reimbursement of DP20 a groundwater sample

must have been collected from the subject boring and submitted for laboratory analysis. Chain of custody documentation is required.

A separate per-foot unit rate (DP15) for the oversight of direct push groundwater profiling (no soil collection or sampling) is provided. This involves the collection of groundwater samples (grab samples) across a site with the express purpose of identifying the horizontal and vertical distribution of petroleum contamination in groundwater. This rate is not incremental to the unit rate for activities DP05 and DP10 and cannot be applied if a groundwater sample could have been collected using activity DP20 in conjunction with DP05 and/or DP10.

A separate per-well unit rate (DP25) for the oversight of temporary groundwater monitoring well installation (s. NR 141.29) is provided.

Abandonment costs for these temporary wells have been included as a separate activity (GS30) under TASK 1 (Groundwater Sampling). The department expects these temporary wells to be abandoned during their final groundwater sampling event. Task 8 (well abandonment) may not be applied.

Commodity Services

This task consists of commodity service labor and equipment and supplies to perform direct push soil borings. In order for the soil boring rates (DP35 and DP40) to qualify a continuous soil profile must be collected.

A separate per-foot unit rate (DP45) for direct push groundwater profiling (no soil collection or sampling) and the advancement of a borehole for activity DP75 (temp well install) is provided. This rate is not incremental to the unit rate for activities DP35 and DP40 and cannot be applied if a groundwater sample could be collected using activity DP70 in conjunction with activity DP35 and/or DP40.

A separate per-sample unit rate (DP70) for the collection (grab samples) of groundwater samples during activities DP35 and/or DP40 is provided. For reimbursement of DP70 a groundwater sample must have been collected from the subject boring and submitted for laboratory analysis. Chain of custody documentation is required.

Separate reimbursement maximums are provided for drive points, borehole abandonments and concrete penetrations, in DP55, DP60 and DP65, respectively.

A separate per-foot unit rate (DP75) for temporary groundwater monitoring well installation (s. NR 141.29) is provided. Activity DP45 can be used for the advancement of this borehole.

Reference code DP80 consists of labor, equipment and supplies to mobilize and demobilize a direct push rig to install soil borings and/or monitoring wells. This reimbursement maximum includes decontamination labor and equipment.

13. DRILLING

Department notification and approval is required prior to drilling a borehole that will exceed a depth of 75 feet below ground surface (bgs) l. The footage intervals referenced on the schedule are also applicable on a per-boring basis (not total footage per site, occurrence or project). For sites subject to public bidding, (estimated or actual cost, including interest, will exceed $60,000), this task is limited to 40 feet of total drilling (on a site or project basis) without prior department approval. This task can be completed by either a consultant or a third-party commodity service provider.

Consultant Services

This task consists of labor, equipment and supplies to oversee drilling and collecting split spoon soil samples (except blind drilling and bedrock drilling) every 2.5 feet regardless of borehole depth. The horizontal location of each borehole is to be measured and DNR soil borehole logs must be completed by appropriate consulting firm employees and signed by the consulting firm employee that logged the borehole.

For unconsolidated drilling, this task includes field screening, selection and preparation of soil samples for laboratory analysis, but does not include laboratory analytical costs. For bedrock drilling, this task includes field screening and descriptions of bedrock drill cuttings.

The reimbursement unit rate for bedrock drilling oversight (13.c) can only be applied within competent bedrock (i.e. at or below hollow stem auger refusal). For the shallower, unconsolidated drilled interval, the maximum reimbursement unit rates for oversight (13.a or 13.b) would apply.

Commodity Services

This task consists of labor, equipment and supplies to drill in unconsolidated soils and/or competent bedrock. For drilling in unconsolidated soils, split spoon soil samples are to be collected every 2.5 feet, regardless of boring depth (except blind drilling). The bedrock drilling maximum reimbursement unit rate (13.f) can only be applied within competent bedrock (i.e. at or below hollow stem auger refusal). For the shallower, unconsolidated drilled interval, the maximum reimbursement unit rates (13.d or 13.e) would apply.

For drill rig mobilization, see Task 15.

14. MONITORING WELL INSTALLATION

Consultant Services

This task consists of labor, equipment and supplies to oversee installation of ch. NR 141 compliant monitoring wells. The cost for measurement of horizontal location of each monitoring well is also included. A WDNR well construction form is to be completed for each well while in the field.

Commodity Services

This task consists of labor, equipment and supplies to install and develop ch. NR 141 compliant monitoring wells (2 inch PVC casing). A WDNR well development form must be completed and signed by the individual that develops the well. Either a commodity service provider or the consultant may perform well development utilizing the well development activity (MWI20).

A separate mob/demob is available for wells that need a waiting period, under s. NR 141.21, between installation and development.

15. MISCELLANEOUS DRILLING TASKS

This task consists of miscellaneous activities, equipment, materials and supplies that may be necessary to complete soil borings or well installations.

Reference code MDT05 consists of labor, equipment and supplies to mobilize a drill rig to install soil borings and/or monitoring wells. This reimbursement maximum includes decontamination labor and equipment.

The reimbursement maximum for reference codes MDT10, MDT15, MDT20, MDT21, MDT35 and MDT45 includes materials and labor as appropriate.

Reference code MDT25 [commodity service provider (drilling and direct push) overnight per diem, which includes meals and overnight stay per person. Limited to 2 persons] can only be applied when the work at a site will require greater than one day to complete, and an overnight stay is more cost effective than traveling to and from the site. Note: In order to be able to utilize this activity there must be an overnight stay. This activity can also be utilized by TASK 12 (Direct Push) commodity service providers. It cannot, however, be used for an overnight stay between jobs at different sites; mobilization/demobilization activity (MDT05 or DP80) is available for this activity.

Reference code MDT30 (Well Repair) includes labor to perform minor repairs on a well (e. g. well cover replacement, riser adjustment, etc.). Department review and approval is required prior to conducting this activity. This is not to be used or well (bentonite/rainwater clean out, rethread mounting bolts, etc.), which is addressed under Task 1 – Groundwater Sampling. There is no separate mob/demob. This activity maintenance is to be conducted concurrent with another task that has a mob/demob.

16. HAND AUGER BORING

This task consists of labor, equipment and supplies to perform hand-augered soil borings to depths greater than 12 inches. The horizontal location of each borehole is to be measured and DNR soil borehole logs must be completed by appropriate consulting firm employees and signed by the consulting firm employee that logged the borehole. This task includes the field screening, selection and preparation of soil samples for laboratory analysis. It does not include laboratory analytical costs.

Abandonment labor for auger boreholes is included in the unit rate. Should s. NR 141.25 apply (borehole > 10-ft or groundwater encountered), then well abandonment activity, WAB20, can be utilized.

For sites subject to public bidding, (estimated or actual cost, including interest, will exceed $60,000), this task is limited to 10 borings without prior department approval.

17. SURFACE SOIL/SEDIMENT/WATER SAMPLING

This task consists of sampling of various types of surface waters, sediments and/or soils not associated with installing a well or a soil boring. This activity includes personnel, equipment and supplies to complete the task. The cost for measurement of horizontal location of each sample point is included. It also includes project management to coordinate this task and the personnel to manage laboratory services such as chain of custody, sample preparation, sample shipping, and QA/QC samples. This task does not include the cost of laboratory analyses.

For sites subject to public bidding, (estimated or actual cost, including interest, will exceed $60,000), prior department review and approval is required if the number of sample locations will exceed five.

18. VAPOR SCREENING

This task consists of labor, equipment, and supplies to screen for vapors that may have migrated from a point of release and entered into subsurface structures such as sewers, basements, utility vaults, aboveground enclosed structures, etc. Department review and approval is required prior to conducting more than one screening per site. This task is to be conducted concurrent with another task (no separate mob/demob) with

an organic vapor analyzer. Separate responses to reported vapors or subsequent sampling events will be considered to be an emergency action.

19. HYDRAULIC CONDUCTIVITY TESTING

This task consists of personnel, equipment, and supplies to conduct hydraulic conductivity testing in monitoring wells. It also includes project management time to coordinate this task and the labor to download the data from the data logger.

For sites subject to public bidding, (estimated or actual cost, including interest, will exceed $60,000), Department review and approval is required prior to conducting this task in more than 2 wells.

20. SOIL BORING/MONITORING WELL PERMITS

This task consists of labor to acquire soil boring and/or monitoring well permits required by municipalities. A copy of the permit is required in order to receive this reimbursement. There are two exceptions to this requirement, both of which require prior department approval – 1) When a government entity, such as a municipality, state, city, township, county, etc., requires written notification of the installation of a soil boring or monitoring well but does not require a permit fee and does not issue a formal permit; and 2) Annual permit renew al. In both cases, notification costs would be reimbursed under TASK 7.

Task 20, activity SBMWP05 does not include any required permit fee. If a permit fee is required, the fee amount can be reimbursed with appropriate documentation (e.g. receipt for payment of permit fee) submitted in the claim.

21. ACCESS AGREEMENTS

This task is for the preparation and execution of an agreement to gain access to an off- source-property. It includes labor to draft an access agreement and to present it to the third party. Department review and approval is required prior to conducting additional attempts at execution. Any fee paid to the third party for the access is not reimbursable. Copy of the access agreement(s) required.

22. SOIL INVESTIGATION REPORT

This task is intended for those sites for which only soil contamination has been identified. It consists of labor and material costs required to prepare and submit one comprehensive site investigation report. The department expects this task to include, but is not limited to, the following: data reduction, data analysis, and compilation of tables and figures, etc. The format and content of this report must conform to s. NR 716.15. This task is to include labor for the preparation of the report and all reviews, modifications, revisions and re-submittals.

This task will be reimbursed for a complete report only. Addition al costs to remedy omissions or corrections for this document are not eligible. In order to receive the maximum reimbursement for this task its format and content must conform to the requirements set forth in s. NR 716.15.

When closure is recommended or sought concurrent with the preparation and submittal of this document all aspects of the closure report must be included as part of the SI report (includes, but is not limited to, closure form, technical rational, etc.). In such cases, the reimbursement rate for a closure request (CR05) is not available as an additional cost. However, the incremental cost listed under Task 5 for LNAPL reporting (CR10) and GIS Packet preparation and submittal (CR15 and/or CR20) may be applicable.

23. SOIL AND GROUNDWATER INVESTIGATION REPORT

This task is intended for those sites for which there is both soil and groundwater contamination. It consists of labor and material costs required to prepare and submit one comprehensive site investigation report. The department expects this task to include, but is not limited to, the following: data reduction, data analysis, and compilation of tables and figures, etc. The format and content of this report must conform to s. NR 716.15. This task is to include labor for the preparation of the report and all reviews, modifications, revisions and re-submittals.

This task will be reimbursed for a complete report only. Addition al costs to remedy omissions or corrections for this document are not eligible. In order to receive the maximum reimbursement for this task its format and content must conform to the requirements set forth in s. NR 716.15.

When closure is recommended or sought concurrent with the preparation and submittal of this document all aspects of the closure report must be included as part of the SI report (includes, but is not limited to, closure form, technical rational, etc.). In such cases, the reimbursement rate for a closure request (CR05) is not available as an additional cost. However, the incremental cost listed under Task 5 for LNAPL reporting (CR10) and GIS Packet preparation and submittal (CR15 and/or CR20) may be applicable.

24. LIMITED SOIL EXCAVATION

This task is limited to a maximum of $10,000 including laboratory analytical costs. It is a one-time event per occurrence. This task is only applicable to sites not subject to public bidding under s. 101.143 (3) (cp), Stats. All sites, for which the estimated or actual total cost (including interest) will exceed $60,000, are subject to public bidding. The approval under s. NR 747.337 (2) (b) or (c) is not required.

Consultant Services

This task consists of labor and equipment to oversee the excavation, disposal of contaminated soil and back filling with clean material. It also includes, but is not limited to, costs for planning, permitting, coordination and sample collection.

Commodity Services

This task consists of labor and equipment to conduct a limited remedial excavation to remove and dispose of contaminated soils and backfill the excavation. It also includes, but is not limited to, costs for excavator, transportation and landfill disposal.

Disposal documentation (i.e. receipt, discharge permit, etc.) must be provided, especially when Activity LSE16 (Landfill Environmental Fee) is utilized. Actual landfill disposal costs will not be reimbursed without proof of actual cost.

25. REMEDIATION SYSTEM SHUT DOWN

This task consists of labor and equipment to shut down an active remediation system, either permanently or temporarily.

The temporary shutdown rate (SSD10) is not incremental to the permanent shutdown rate (SSD05), does not apply during permanent shutdown and can only be performed once per year without departmental approval.

Permanent shutdown includes, but is not limited to, activities to abandon and dismantle the treatment system

at time of closure. Temporary shutdown could include, but is not limited to, activities such as removing water from lines and tanks as necessary (e.g. winterization).

26. SITE SPECIFIC RCL CALCULATIONS FOR DIRECT CONTACT RISK

This task consists of labor to calculate Site Specific Residual Contaminant Levels (SSRCL) for direct contact risk under s. NR 720.19 (5). This is a one- time event and department notification and approval is required prior to conducting more than one site specific RCL calculation. The reimbursement maximum covers the cost for all calculations, regardless of the number of contaminants of concern. If these calculations are submitted as a stand-alone document, then regulatory correspondence (Task 7) can be used for submittal; otherwise they are to be incorporated as a component of another document.

27. CLAIM SUBMITTAL

This task is for the preparation and submittal of a claim by a certified public accountant, independent contractor, or other independent preparer. Submittal events are based on milestones.

Documentation must be submitted in a claim to substantiate that the activities for which a claim is being made have, in fact, been performed and completed. This supporting documentation may be in the form of, but not limited to, commodity service invoices, field notes, laboratory chain-of-custody, monitoring well construction logs and abandonment forms, borehole logs and abandonment forms, reports, waste disposal tickets, etc. Each piece of supporting documentation should be attached to the invoice on which, are the activities that it supports.

This task will be reimbursed for a complete claim only. Additional costs to remedy omissions or corrections for this document are not eligible.

28. STANDARDIZED INVOICE

This task is for the preparation of DNR's standardized invoice found on the PECFA webpage under the Reimbursement tab. One form is to be completed for each invoice submitted in a PECFA claim where the U & C schedule applies. Not required for bid sites.[4]

29. OCCURRENCE CLASSIFICATION FORM

This task consists of labor for the preparation and submittal of a site classification score sheet (to be provided by the department). This will be a one-time reimbursable amount and will only be eligible for score sheets that are completed and received by the department on or before February 28, 2008.

30. MEETING WITH REGULATORS

This task consists of labor and mileage per diem to meet with DNR regulatory staff at the office or project site. It does not include teleconferences (these are applicable under Task 7).

[4] NR 747.13 Exclusive remedy and liability. The PECFA fund awards for remediation activities and is not intended to result in owners or operators or persons owning home oil tank systems making any profit or receiving duplicate payment in a remediation. As specified in s. 101.143 (7) (am), Stats., an award made under this chapter is the exclusive method of recovery for costs reimbursed under the fund. *(Note: Section 101.143 (7) (a) and (am) read as follows "(a) No common law liability, and no statutory liability which is provided in a statute other than this section, for damages resulting from a petroleum product storage system or home oil tank system is affected by this section. Except as provided in par. (am), the authority, power and remedies provided in this section are in addition to any authority, power or remedy provided in any statute other than this section or provided at common law. (am) An award under this section is the exclusive method for the recovery of the amount of eligible costs equal to the amount of the award that may be issued under this section." History: Cr. Register, February, 1994, No. 458, eff. 3–1–94.)*

This task can also be used to review files for "stalled sites"[5] for which a new consultant has been contracted to move the project to closure. It can only be used once per site and the review must take place in a DNR office.

Prior written approval from the respective agency is required. This does not include RP/consultant, consultant/consultant, or internal consultant meetings. This is a per-visit charge regardless of the number of projects that may be discussed.

31. CONSULTANT OVERNIGHT PER DIEM

This task includes an overnight stay, which consists of lodging and a morning and evening meal at the respective State rates. This task can only be utilized by consultants on a site by site basis. It must also be shown that the effort necessary to complete a single task or multiple tasks at a site requires greater than one day to complete. In addition, it must be shown that it is more cost effective to stay overnight as opposed to traveling to and from the site each day.

32. DEED RESTRICTION PREPARATION

This task consists of personnel and materials to prepare a deed restriction required as a condition of closure. The execution of the deed restriction is not reimbursable. This task cannot be used if the "deed restriction" is part of the agency closure letter. Nor can this task be used if the consultant is recommending the use of this mechanism in the closure request (TASK 5).

33. SCHEDULE OF LABORATORY MAXIMUMS

This schedule presents the maximum reimbursement amounts for eligible laboratory analytes. Shipping costs are included in the rate for all parameters.

Note: Trip Blanks, Field Blanks and Methanol Blanks are eligible for reimbursement: The reimbursement maximum for these QA/QC samples will coincide with the appropriate analytes provided in the schedule.

34. CONSULTANT INCREMENTAL MOB/DEMOB

This task includes labor and equipment for additional field work when two or more field tasks are conducted at the same PECFA site on the same day. The largest primary mob/demob, from one of the field tasks (the primary task) being performed, can be applied. The incremental mob/demob can only be applied to the additional field tasks that are conducted at the same site and on the same day as the primary task, and for which there is a consultant primary mob/demob activity.

35. CAP MAINTENANCE PLAN

This task consists of activities for the preparation and submittal of a cap maintenance plan at the conclusion of remediation as required by ch. NR 726. This submittal reimbursement maximum does not include the GIS Packet reimbursement maximum.

This task will be reimbursed for a complete plan only. Additional costs to remedy omissions or corrections for this document are not eligible. In order to receive the maximum reimbursement for this task its format and content must conform to the requirements set forth in s. NR 726.

[5] A "stalled" site is a PECFA eligible site that has made no progress towards closure for a reasonable period of time

36. CHANGE ORDER REQUEST

This task consists of activities for the preparation and submittal of change in scope of service requests (i.e. DNR must request the change order).

This submittal must be in a written form and reviewed and approved by the department prior to commencing any of the activities detailed in the proposed scope of services. This submittal reimbursement maximum does not include the GIS Packet reimbursement maximum.

This task will be reimbursed for a complete request only. Additional costs to remedy omissions or corrections for this document are not eligible.

The Usual and Customary Cost Schedule – Standardized Invoice is available at dnr.wi.gov/topic/Brownfields/pecfa.html under the Reimbursement tab.

This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

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