

Proper Submittal of Documents and Requests for Assistance to the DNR's RR Program

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To assist the RR program in responding to customer submittals in a timely manner, we are asking consultants, lenders, attorneys, local governments, property owners and others to observe simple guidelines when submitting written requests for assistance or documents to the RR program. This will help to expedite the tracking, processing, and making of a final determination regarding the information you provided to us.

1. Non-fee submittals

If you are submitting a report to the RR Program, such as a site investigation report under ch. NR 716, Wis. Adm. Code, please attach a cover letter to the report that:

1. clearly lists the BRRTS/FID number;
2. describes the title and type of submittal; and
3. what action, if any, is being requested from the RR Program.

The report's cover letter and cover page should clearly identify the regulatory purpose of the report or submittal. To do this, identify the specific regulatory or statutory provision you are satisfying, by providing the appropriate title from ch. NR 700, Wis. Adm. Code series. For example, if you are submitting a Remedial Action Options Report (RAOR) under ch. NR 722, Wis. Adm. Code please include the title ch. NR 722 RAOR in the cover letter and cover page.

Please be advised that we will place a notice of receipt of your document on the site's activity page on BRRTS on the Web, and, in some cases, we will send a notice of receipt through the mail. However, we generally do not provide written comments on submittals received without a fee.

2. Fee-based submittals

If you are submitting a document and requesting our review and comments— verbal or written - the submittal must include a check for the appropriate review fee, as required under ch. NR 749, Wis. Admin. Code. Further, we highly recommend you use the Technical Assistance and Environmental Liability Clarification Request Form, which will help expedite the processing of your request. You can access the form on-line at dnr.wi.gov/files/PDF/forms/4400/4400-237.pdf. You should use this form when requesting technical assistance, liability clarification, or specialized agreements. More information about the RR program's fee-based review system for technical assistance and liability clarification can be found on-line at: dnr.wi.gov/topic/Brownfields/fees.html.

As mentioned previously, if you are submitting a document for review and a DNR response, please place a title on the document that is consistent with the applicable regulatory provisions – NR500, 600 or 700 rule series.

3. Requests for Financial Assistance

When requesting funding through one of our many grant, loan and tax assistance programs, a technical report is often included as part of the required submittal. In the application and on the title page of the technical report, please use the appropriate title for the report. Also, if you are using state or federal funds to produce a report, those submittals should also include the correct title for the submittal, and either a cover page or the technical assistance form. Nothing slows down a review process more than confusion over the type of report being submitted. For example, is a document entitled "Contaminant Assessment Report" a Phase I environmental site assessment (ESA), a

Phase II ESA, a ch. NR 716 site investigation, or none of these?

Ensuring Use of Correct Titles

The table on the following page lists several common reports submitted to the RR Program, with the report titles that should always be used by our customers. These titles are taken from the NR 700 rule series, and also appear in the RR program's fee rule (ch. NR749, Wis. Adm. Code). The consistent use of these titles will help RR program staff correctly track and process your submittals, and avoid confusion on both the response needed and the appropriate fee. The use of incorrect titles has resulted in unnecessary delays for you and your customers.

Two problematic types of reports that are often prepared and submitted to the RR Program are a Phase I ESA report and a Phase II ESA report. They are often prepared for sites as part of due diligence pertaining to a property transaction or when applying for technical, liability or financial assistance from the DNR.

For instance, a Phase I and Phase II ESA report are submitted to the DNR for several programmatic or legal reasons, including:

- Voluntary Party Liability Exemption (VPLE) compliance;
- lender liability exemption requirements;
- requesting a liability clarification letter – technical or liability-related - for a fee;
- requesting a tax agreement under s. 75.105 or 75.106, Wis. Stats.;
- seeking a CERLA liability exemption, such as making a Bona Fide Prospective Purchaser submittal under CERCLA; and
- seeking financial assistance (grant, loan, tax incentive) from the DNR.

The Department recommends that, at a minimum, the current ASTM standards be followed when conducting Phase I and Phase II ESAs. The exception would be those seeking the lender exemption under s. 292.21, Wis. Stats.; those persons should follow, at a minimum, the environmental assessment standards established in s. 292.21, Wis. Stats. When a person is seeking liability protections under CERCLA, the person should consult

Type of Letter or Assistance	Alternate Acceptable Titles
Phase I and Phase II environmental site assessment report	No other acceptable titles
Site Investigation Work Plan – ch. NR 716	No other acceptable titles
Site Investigation Report – ch NR 716	If done in stages: Site Investigation Report ‘Initial Stage’ or ‘First Stage’ (Not Phase III or Assessment)
Site-Specific Soil Cleanup Standards- ch. NR 720.19	No other acceptable titles
Remedial Action Options Report – ch. NR 722	If combined with the design report: Remedial Action Options and Design Report*
Remedial Design Reports – ch. NR 724	No other acceptable titles
Operation and Maintenance Reports – ch. NR 724	No other acceptable titles
Construction Documentation Report **– ch. NR 724	As-Built Report; or Remedial Action Documentation Report
Long-Term Monitoring Plans – ch. NR 724	No other acceptable titles
No Further Action Letters – ch. NR 708	No other acceptable titles
Other Technical Assistance – List specific administrative code or statutory title of document (e.g., s. NR 716.05, ch. NR 506, etc.)	No other acceptable titles

* As noted in the table, it may be acceptable to combine reports in one submittal. For example, an SI and a Remedial Action Options Report, or a Remedial Action Options Report and a Remedial Design Report might be submitted together. In that case, both titles may be used or may be combined – SI/RAOR or Remedial Action Options and Design Report.

** The title “Remedial Action Report” for documents that describe how the action was carried out should no longer be used. The title that should be used for this sort of report is “Construction Documentation Report” (or “As-Built Report”, as outlined in s. NR 724.15, Wis. Adm. Code). The title “Remedial Action Documentation Report” is also acceptable.

with the U.S. Environmental Protection Agency (EPA). See EPA’s web page at www.EPA.gov for more information.

For a better understanding of the difference between a Phase I ESA, a Phase II ESA and a site investigation, please see the text box at the right. If you need further information regarding the use of Phase I and II ESAs in Wisconsin, please go to our web page at: dnr.wi.gov/topic/Brownfields/esa.html.

Site investigation reports submitted under chapter NR 716, Wis. Adm. Code, should not use the terms Phase I, II or III environmental site assessment in the titles; even if the investigation is conducted in stages. It is especially important to avoid the term “assessment” for ch. NR 700-compliant site investigation reports. For example, the first stage of a site investigation at a petroleum case could be called an Initial or First Stage ch. NR 716 Site Investigation Report. Doing so will help avoid confusion, save you and your client money, and help the DNR track a submittal properly.

Site Assessment vs. Site Investigation: What’s the difference in Wisconsin?

“**Phase I environmental site assessment**” means an assessment of a site to identify potential or known areas of environmental contamination. This assessment may include, but is not limited to, reviewing records, interviewing persons, and conducting physical inspections of the site.

“**Phase II environmental site assessment**” means an assessment of a site to physically confirm that contamination exists in potential or known areas of environmental contamination identified in the Phase I environmental assessment, but not to determine the nature, degree and extent of contamination. This assessment may include, but is not limited to, field sampling of media, laboratory analysis of samples and visual confirmation of environmental contamination at the site.

“**Ch. NR 716 Site Investigation**” provides the information necessary to define the nature, degree and extent of contamination, defines the source or sources of contamination, determines whether any interim actions, remedial actions, or both are necessary at the site or facility, and allows an interim or remedial action option to be selected that complies with applicable environmental laws. In general, a NR 716 Site Investigation Report must be submitted and approved prior to the Department awarding federal grant funds on a particular site.