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 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. 700 – 754. 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

Wis. Stat. ch. 292, allows the DNR to assess and collect fees for clarifying environmental liabilities and providing technical assistance. Wis. Admin. Code ch. NR 749 includes a table listing the cost for common requests. The most current fee schedule can be found at https://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 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 meant to be utilized with Wis. Admin. Code ch. NR 749 and RR-966, Fee Schedule, to assist you in determining the appropriate fee to accompany your request. Contact your RR project manager before paying a fee if you have questions. Fee appeals should be addressed to the Regional Team Supervisor.

Closure Fees

Wis. Admin. Code ch. NR 726 closure requests are charged a $1050 review fee and applicable database fees, as needed. The maximum closure fee is $1,700. Wis. Admin. Code ch. NR 726 closure-related fees are generally only charged once per case.

In rare instances, closure submittals may be treated as requests for technical assistance, and the submitted fee is not applied to the closure request. This will be communicated directly with the responsible party, and the requirement that a new closure fee be paid with a resubmittal will be provided in the technical response letter.

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.

Closure requests for sites previously denied closure by the Department of Safety and Professional Services (DSPS) or the former Department of Commerce (Commerce), must have all closure-related fees paid upon submittal to the DNR.

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

Database Fees

Database fees are defined in Wis. Admin. Code § NR 749.04, Table 1 (d).

One $300 fee is charged for all soil-related continuing obligations, including:

- Soil attains or exceeds Wis. Admin. Code ch. NR 720 RCLs;
- Performance standard for soil, such as a cap;
- Structural impediment;
- Industrial soil standard applied, maintain industrial land use.

One $350 fee is charged for all groundwater-related and vapor-related continuing obligations, including:

- Groundwater attains or exceeds Wis. Admin. Code ch. NR 140 enforcement standards;
- "Lost" monitoring wells or monitoring wells retained for further sampling;
- Vapor-related continuing obligations;
- Site-specific continuing obligations, not otherwise addressed above.

The maximum database fee is $650 per case closure.

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	$1050
Site Investigation Report (SIR) submitted with Technical Assistance (TA) request (NR 716.17 (4))	SIR	$1050
Remedial Action Options Report (RAOR)/Remedial Design Report (RDR) submitted with Technical Assistance (TA) request (NR 724.05 (2) (a)))	RAOR = RDR	$1050
Remedial Design Report (RDR) submitted with Operations and Maintenance (O&M) plan and/or long-term monitoring plan (NR 724.05 (2) (a)))	RDR	$1050
Remedial Action Options Report (RAOR)/Remedial Design Report (RDR) submitted with Infiltration/Injection (I/I) application (NR 140.28 (5) (e))	RAOR = RDR	$1050

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

- Liability clarification letter requests;
- Exemption to build on a historic fill site requests.

For soil management exemption fee submittals, see *Management of Contaminated Soil and Other Solid Wastes Wis. Admin. Code §§ NR 718.12 and NR 718.55 (RR- 060)*.

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

Requests to modify continuing obligations require a $1050 modification fee in addition to the applicable database fees, per request. Requests to extinguish deed restrictions require a $1,050 modification fee if the site was never listed on the DNR database. Database fees may be required for former deed-restricted sites if continuing obligations are still needed.

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 agreements, 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

Where 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 technical assistance fees for work on sites, per Wis. Admin. Code § NR 749.05. Case closure fees and any associated database fees are required, either paid directly or through the cooperative agreement.

DNR Program-Specific Fees

1. 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.

2. **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.

3. **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.

4. **PECFA**
   Submittals for PECFA-eligible sites are typically not charged a technical assistance fee, as these costs are considered ineligible under the PECFA program (per Wis. Stat. § 292.63 (4) (c) 10.) and staff review time is covered by the petroleum inspection fund. Instances when fees are charged include:

   - Requests for a written response and/or approval on a specific technical report;
   - Case closure requests, and associated continuing obligations packets;
   - Requests for a liability clarification and/or liability exemption determination.

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. 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.

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 Chief, Public Civil Rights, Office of Civil Rights, U.S. Department of the Interior, 1849 C. Street, NW, Washington, D.C. 20240.

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