

Chapter NR 732

COST REIMBURSEMENT FOR MUNICIPAL LANDFILL MONITORING

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NR 732.01 Purpose. The purpose of this chapter is to provide eligibility criteria and procedures for submitting, processing and approving requests for state reimbursement of monitoring costs incurred by a municipality, that is an owner or a past or present operator of a closed solid or hazardous waste disposal site or facility which was either a nonapproved municipal landfill or a waste site, as defined in s. 292.01 (21), Stats. This chapter is adopted pursuant to ss. 227.11 (2), 289.06 (1), 289.31 (7) and 292.31 (4), Stats.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532.

NR 732.02 Applicability. This chapter applies to monitoring required of a municipality through the issuance of a special order by the department under the authority of s. 289.31 (7) (d), Stats.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94; correction made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532.

NR 732.03 Definitions. In this chapter:

(1) "Closed" means no longer accepting solid or hazardous waste.

(2) "Eligible monitoring cost" means expenditures incurred by a municipality for monitoring required by an order under s. 289.31 (7) (f), Stats., including expenditures for geophysical surveys, mapping, private and public well sampling, placement of monitoring wells, access fees and actual costs of collection.

(3) "Environmental fund" means the fund established in s. 25.46, Stats.

(4) "Monitoring" has the meaning specified in s. 289.31 (7) (b), Stats.

Note: Section 289.31 (7) (b), Stats., defines "monitoring" to mean "activities necessary to determine whether contaminants are present in groundwater, surface water, soil or air in concentrations that require investigation or remedial action. 'Monitoring' does not include investigations to determine the extent of contamination, to collect information necessary to select or design remedial action, or to evaluate the performance of remedial action."

(5) "Nonapproved municipal landfill" means either a licensed solid or hazardous waste disposal facility which was never an "approved facility" as that term is defined in s. 289.01 (3), Stats; or an area used by a municipality for the disposal of municipal or industrial waste, or both, which never received a license or written approval for operation from the department.

(6) "Waste site" has the meaning specified in s. 292.01 (21), Stats.

Note: Section 292.01 (21), Stats., defines "waste site" to mean "any site, other than an approved facility, an approved mining facility or a nonapproved facility, where waste is disposed of regardless of when disposal occurred."

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94; corrections in (2) to (6) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532.

NR 732.05 Eligibility. (1) A municipality that is an owner or a past or present operator of a closed, nonapproved municipal landfill or waste site may seek reimbursement for any eligible costs of monitoring incurred pursuant to an order issued by the department under s. 289.31 (7) (d), Stats., if all of the following conditions are satisfied:

(a) The municipality is in compliance with the order issued by the department under s. 289.31 (7) (d), Stats.

(b) The municipality has provided an affidavit to the department that the municipality has filed a claim for the costs of monitoring with all of the municipality's past and present liability insurance carriers, for which insurance coverage may still be in effect, and that to date coverage has been denied in whole or in part.

(c) If the municipality's liability insurance carriers pay the municipality for any of the monitoring costs for the same closed, nonapproved municipal landfill or waste site for which the municipality received any payment under this chapter, the municipality agrees that it shall reimburse the department for the payments made under this chapter from the insurance proceeds.

(d) The costs incurred are reasonable and necessary for the monitoring that has been ordered.

(2) Any monitoring that is conducted at a nonapproved municipal landfill that closes after the issuance of a department order requiring monitoring shall not be eligible for reimbursement under this chapter.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94; corrections in (1) (Intro.) and (a) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532.

NR 732.07 Applications for reimbursement.

(1) Municipalities shall submit reimbursement applications on forms that are available from the department.

Note: Copies of these forms may be obtained from the Department of Natural Resources, Bureau of Solid and Hazardous Waste Management, Emergency and Remedial Response Section, P.O. Box 7921, Madison, WI 53707.

(2) All applications for reimbursement of monitoring costs incurred in the previous calendar year or before shall be submitted to the department on or before June 1st of each year, in order to be eligible for payment in that same calendar year. Properly completed applications submitted before June 1st shall be reimbursed no later than September 1 of that year. Applications that are received by the department after June 1st of any year shall be paid from the environmental fund appropriation under s. 20.370 (2) (dv), Stats., on or before September 1 of the following year.

Note: Applications should be submitted to the solid waste staff person assigned to the site for review of eligibility and compliance with the order. The application will be forwarded to the department's environmental repair unit in Madison, for review.

Note: A municipality may elect to carry over eligible costs from one year to the next to maximize their reimbursement should the order be issued so that only a portion of the monitoring cannot be completed prior to June 1st.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94.

NR 732.09 Reimbursement. (1) The department shall pay the total eligible monitoring costs incurred by the municipality pursuant to an order issued under s. 289.31 (7) (d), Stats., which exceed \$3 multiplied by the municipal population, prior to making other payments from the environmental fund appropriation under s. 20.370 (2) (dv), Stats.

(2) The department shall reimburse a municipality that has submitted a properly completed application for reimbursement, in compliance with the requirements of ss. NR 732.05 and 732.07, up to a maximum of \$100,000 total for each closed, nonapproved municipal landfill or waste site. The department shall reimburse

the municipality from the environmental fund appropriation that is referenced in s. 289.31 (7) (f), Stats. Any monitoring costs incurred by the municipality which exceed this maximum shall be the responsibility of the municipality.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532.