

Refund Policy for Fees Paid to DMS In-Lieu Fee Programs (9/21/2009)

Purpose: The purpose of this policy is to make clear the circumstances and process under which a permittee can obtain a refund while simultaneously balancing customer service and responsible business practices. This policy applies to all refund requests made on or after the publication date of this policy.

Policy Statement: The policy of DMS is to allow for refunds under certain conditions.

1. All refund requests must be made in writing to the DMS In-Lieu Fee Program Coordinator at kelly.williams@ncdenr.gov.
2. All refund requests are subject to fund availability. DMS does not guarantee fund availability for any request.
3. The request must either come from the entity that made the payment or from an authorized agent. Third parties requesting refunds must provide written authorization from the entity that made the payment specifying the name and address of the authorized refund recipient.
4. Refund requests related to unintended overpayments, typographical errors or incorrect invoices should be brought the attention of the In-Lieu Fee Program Coordinator as soon as possible. Such requests are typically approved without delay.
5. Payments made under the incremental payment procedure are not eligible for refunds.
6. Refund requests made within nine months of payment to DMS will only be considered for requests associated with projects that have been terminated or modified where the permittee's mitigation requirements have been reduced. Such requests must be accompanied by written verification from the permitting agency that the project has been cancelled, the permits have been rescinded or have been modified, or the mitigation requirements have been reduced.
7. Refund requests made more than nine months from the payment date will only be considered for permits that were terminated or modified to not require any mitigation. Such requests must be accompanied by written verification from the permitting agency that the project has been cancelled, the permits have been rescinded and/or mitigation is no longer required.
8. Refund requests not meeting the criteria specified above are not eligible for a refund.
9. Refund requests that meet the criteria above will be elevated to DMS Senior Management for review. The following considerations apply to all refund requests:
 - a. availability of funds after consideration of all existing project and regulatory obligations
 - b. the date the payment was made
 - c. the likelihood DMS can use the mitigation procured using the payment to meet other mitigation requirements
10. Once a refund has been approved, the refund recipient must provide a completed W-9 form to the DMS In-Lieu fee Program Coordinator within two weeks in order to process the refund through the State Controller's Office.
11. All decisions shall be final.