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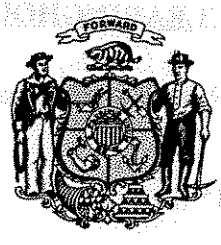
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FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Terry C. Anderson, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 01-009

AN ORDER to renumber and amend NR 714.05 (2) (a); to amend NR 714.05 (2) (intro.) and 714.07 (1) (intro.) and (2); and to create NR 714.05 (2) (a), relating to notification of affected landowners when off-site contamination is detected, and notification to the public when an environmental investigation is required at a leaking underground storage tank site.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

- 02-06-01 RECEIVED BY LEGISLATIVE COUNCIL.
- 03-05-01 REPORT SENT TO AGENCY.

RS:DLL:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

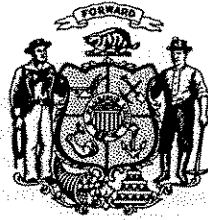
Comment Attached YES NO

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CLEARINGHOUSE RULE 01-009

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. Section NR 714.05 (2) (am) (intro.) should be written in the active voice: "The responsible party shall provide notice to the public"

b. SECTION 2 of the rule should be broken into a series of SECTIONS: The first of these SECTIONS would amend s. NR 714.05 (2) (am) (intro.) 2. and 3.; the second would repeal s. NR 714.05 (2) (am) 4.; and the third would renumber s. NR 714.05 (2) (am) 5. and 6. to be s. NR 714.05 (2) (am) 4. and 5. and amend s. NR 714.05 (2) (am) 5., as renumbered. Note, however, that the renumbering of s. NR 714.05 (2) (am) 5. and 6. is not strictly necessary.

c. There are two options for the treatment of s. NR 714.07 (2): Either the entire subsection should be repealed and recreated or the introduction should be repealed and recreated in one SECTION and pars. (a) to (c) should be amended in another. Note also that the period at the end of par. (c) is missing.

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
RENUMBERING AND AMENDING, AMENDING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to renumber and amend NR 714.05 (2)(a); to amend NR 714.05 (2)(intro.), 714.07 (1)(intro.) and (2); and create NR 714.05 (2)(a) relating to notification of affected landowners when off-site contamination is detected, and notification to the public when an environmental investigation is required at a leaking underground storage tank site.

RR-39-00

Analysis Prepared by the Department of Natural Resources

Statutory authority: Section 227.11 (2)(a), Stats.

Statutes interpreted: Sections 292.11 and 292.31 and ch. 160, Stats.

The proposed revisions to ch. NR 714 (Public Information and Participation) require persons who are responsible for hazardous substance discharges to notify affected property owners if the hazardous substance contamination migrates off of the source property onto neighboring properties. The proposed revisions also include the requirement that, for leaking underground storage tank (LUST) sites, responsible persons are to notify the general public, not just neighboring property owners, whenever a site investigation is required at a LUST site (in addition to providing notice to property owners whose property has been affected by migrating contamination).

SECTION 1. NR 714.05 (2)(intro.) is amend to read:

NR 714.05 (2) (intro.) LEAKING UNDERGROUND STORAGE TANKS. For all confirmed discharges from leaking underground storage tanks which require a site investigation under ch. NR 716, ~~the department shall conduct, or require responsible parties to conduct, public participation activities which meet all of the following minimum requirements shall be met:~~

SECTION 2. NR 714.05 (2)(a) is renumbered NR 714.05 (2)(am), and as renumbered is amended to read:

NR 714.05 (2)(am) ~~Notice shall be provided to the public by the responsible party by means designed to reach those members of the public directly who may be affected by the discharge of a hazardous substance and the implementation and operation of any proposed remedial action. Notice to the public may be provided by any of the following methods:~~

- X 1. Public notice in local newspapers.
- (2. Block advertisements in local newspapers.
- (3. Public service announcements on radio or television.
- 4. ~~Publication in a state register.~~
- 5. Letters to individual households.

revises amend
65. Personal contacts by department field staff or responsible parties.

SECTION 3. NR 714.05 (2)(a) is created to read:

NR 714.05 (2)(a) Within 60 days after the responsible party has confirmed, through sample analysis or other reliable means, that contamination has migrated off of the source property, the responsible party shall mail written notification to all landowners whose property is affected by the off-site migration. At that same time, a copy of the notification shall be submitted to the department. The notification shall include at a minimum:

1. A description of the contamination that has migrated onto the person's property, including the type of contamination and its approximate location.
2. A description of the actions that are being taken, or are proposed, to respond to the contamination.
3. The telephone number and address of persons to contact for more information.

SECTION 4. NR 714.07 (1)(intro.) is amended to read:

NR 714.07 (1) (intro.) EVALUATION OF NEED FOR PUBLIC PARTICIPATION. In order to promote effective and meaningful public participation, responsible parties shall conduct all necessary public participation activities, including at a minimum the written notification and posting of signs required under subs. (2) and (3), unless otherwise directed by the department. Responsible parties shall evaluate the need for and the level of public participation, based on the following criteria:

SECTION 5. NR 714.07 (2) is amended to read:

NR 714.07 (2) NOTIFICATION TO AFFECTED LANDOWNERS. ~~If responsible parties or the department determine that public notification is necessary at a site or facility, responsible parties shall include, or the department may direct the responsible parties to~~ Within 60 days after the responsible party has confirmed, through sample analysis or other reliable means, that contamination has migrated off of the source property, the responsible party shall mail written notification to all landowners whose property has been contaminated, informing them of the contamination. At that same time, a copy of the notice shall be submitted to the department. The notification shall include, at a minimum, the following information in publicly disseminated information or news releases:

- (a) ~~Description.~~ Description. A description of the contamination, including the type, ~~volume and characteristics of the contamination and its approximate location.~~
- (b) ~~Mitigation. Response.~~ Mitigation. A description of the actions ~~underway to contain, reduce or eliminate the threat of~~ that are being taken, or are proposed, to respond to the contamination.
- (c) ~~Contacts. Phone.~~ Contacts. The telephone number and address of persons to contact for more information.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____

c/r/c
dillo
or
amend

26 October 5

This rule takes effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin _____

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

By _____
George E. Meyer, Secretary

(SEAL)