

## Chapter NR 728

## ENFORCEMENT

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**NR 728.01 Purpose.** The purpose of this chapter is to describe the enforcement tools that are available to the department to enforce chs. NR 700 to 726 and to implement response actions at sites or facilities with environmental pollution, and sites where there has been a discharge of a hazardous substance. This chapter is adopted pursuant to ss. 144.431 (1) (a) and (b), 144.442, 144.76, 144.77 and 227.11 (2), Stats.

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

**NR 728.02 Applicability.** This chapter applies to enforcement actions taken by the department under the authority of s. 144.442, 144.76 or 144.77, Stats.

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

**NR 728.03 Definitions.** In this chapter:

(1) "Environmental repair contract" means an agreement entered into by one or more persons and the department pursuant to s. 144.442, Stats., which requires the performance of a response action at a site or facility which causes or threatens to cause environmental pollution.

(2) "Consent order" means an administrative order issued by the department which the order recipient stipulates to and waives the right to a contested case hearing on the order.

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

**NR 728.05 Referrals for rule violations.** Any person who violates the requirements of chs. NR 700 to 726 may be referred to the office of the attorney general by the department. Any person who is referred to the office of the attorney general by the department shall be given written notice of the referral. Section 144.98, Stats., requires that the attorney general enforce ch. 144, Stats., and all rules promulgated to implement ch. 144, Stats.

**Note:** Section 144.99, Stats., provides for forfeitures of not less than \$10 nor more than \$5,000 for each violation of ch. 144, Stats., any rule promulgated under ch. 144, Stats., or any plan approval, license or special order issued under ch. 144, Stats. Each day of continued violation is a separate offense.

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

**NR 728.07 Environmental repair contracts.** (1) **APPLICABILITY.** The department may enter into an environmental repair contract with any person for response actions pursuant to s. 144.442, Stats.

(2) **CONTENT.** All environmental repair contracts entered into pursuant to s. 144.442, Stats., shall contain at a minimum, all of the following provisions:

- (a) A description of the site or facility, and its location.
- (b) A listing of the parties to the contract.
- (c) A schedule for completing the response action covered by the contract.
- (d) Provision for stipulated penalties if the response action is not completed in accordance with the contract schedule.
- (e) The method for resolving any disputes which may arise during the implementation of the response actions.
- (f) The method for modifying the contract.

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

**NR 728.09 Special orders** (1) **EMERGENCY ORDERS.** The department may issue emergency orders without prior hearing, pursuant to s. 144.76 (7) (c), Stats., to the person or persons responsible for a hazardous substance discharge, for the purpose of protecting public health, safety or welfare. Such an emergency order shall become effective upon receipt. However, the recipient of the order shall have 10 days after service of the order to file a petition for judicial review pursuant to ss. 227.52 and 227.53, Stats. The emergency order shall remain in effect after the filing of a petition for judicial review unless the reviewing court issues a stay.

(2) **UNILATERAL ADMINISTRATIVE ORDERS.** The department may issue unilateral administrative orders pursuant to s. 144.76 (7) (c), Stats. Such an administrative order shall become effective 30 days after service of the order, unless the order recipient petitions for a contested case hearing within that 30-day period. All such petitions shall be filed in accordance with the requirements of s. NR 2.05.

(3) **CONSENT ORDERS.** The department may, in its discretion, issue a consent order pursuant to s. 144.76 (7) (c), Stats., if the order recipient is willing to stipulate to the order's issuance.

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