

- (e) Chlorine measurements.
- (f) Temperature measurements.
- (g) Dissolved oxygen measurements.

Note: The requirement in this section to submit data from a certified or registered laboratory is effective on August 28, 1986.

History: Cr. Register, May, 1980, No. 293, eff. 6-1-80; cr. (3), Register, April, 1986, No. 364, eff. 8-28-86; am. (1), (3) (a) to (g), Register, April, 1994, No. 460, eff. 5-1-94.

NR 158.07 Response actions. Upon notification to the department in accordance with s. NR 158.05, responsible parties shall conduct one or more of the necessary response actions in subs. (1) to (5), either at the direction of the department, or where site or facility conditions warrant a response action, or both, unless the department determines no further action is warranted in accordance with s. NR 158.09:

- (1) Emergency or non-emergency immediate action in accordance with this chapter.
- (2) Interim action, in accordance with this chapter and, as applicable, ch. NR 724.
- (3) Site investigation, in accordance with the requirements of ch. NR 716.
- (4) Remedial action, in accordance with the requirements of ch. NR 724.
- (5) Preventive measures plan required by a department-issued order, issued pursuant to s. 144.76 (4), Stats., to minimize or eliminate any further hazardous substance discharges.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94; am. (intro.), Register, March, 1995, No. 471, eff. 4-1-95.

NR 158.09 No further response action. (1) **GENERAL.** Responsible parties may request in writing that the department determine that no further action is necessary to respond to a hazardous substance discharge, in accordance with the requirements of this section. Unless sub. (2) is applicable, the department shall determine no further response action is required if the department determines that the responsible parties have taken all necessary response actions to restore the environment, to the extent practicable, and if the hazardous substance discharge and contaminated environmental media pose no threat to the public health, welfare and safety and the environment, considering all of the following criteria:

- (a) The type of hazardous substance discharged, including the toxicity, mobility and volume of the hazardous substances.
- (b) The duration of the discharge.
- (c) Time until the discharge was responded to and properly contained or eliminated.
- (d) Any mitigation efforts that may have accelerated the migration of the hazardous substances, such as any fire mitigation methods.

(e) Weather conditions at the site or facility, such as any precipitation that may have accelerated the migration of the discharge, from the time of the discharge until the response was completed.

(f) Migration potential of the discharge, including soil conditions, proximity to surface water bodies, location of drains or storm sewers, depth to groundwater and the integrity of any containment area.

(g) The nature and scope of any immediate action conducted.

(h) The results of any sampling conducted to confirm the adequacy of the response, taken in accordance with s. NR 708.05 (3) (c).

(i) Visual and olfactory evidence of contamination.

(j) Actual or potential environmental impacts.

(k) Proximity of contamination of receptors.

(l) Present and anticipated future land use.

(m) Whether or not routes of exposure are protective and the environment has been restored to the extent practicable.

(n) Any other information that the department considers relevant.

(2) The department shall require responsible parties to conduct a site investigation in accordance with ch. NR 716 if a hazardous substance discharge from an UST meets any of the following conditions:

(a) There is evidence that groundwater wells have been affected by a discharge of a hazardous substance, including evidence found during the release confirmation procedures in ch. NR 705.

(b) Free product is found to need recovery in compliance with s. NR 708.13.

(c) There is evidence that contaminated soils may be in contact with groundwater.

(3) **REOPENING A CASE.** The department may require that additional response actions be conducted by responsible parties pursuant to chs. NR 700 to 726 if additional information indicates that residual contamination at a site or facility poses a threat to public health, safety or welfare or the environment:

Note: Although the department may determine at this time that no further response action is necessary pursuant to chs. NR 700 to 726, the site, facility or portion of the site or facility may be subject to the regulations and requirements of other department programs.

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

NR 158.11 Exemptions. The following discharges need not be reported to the department:

(1) A discharge by any person holding a valid permit under ch. 147, Stats., with respect to substances discharged within the limits authorized by the permit.

(2) Discharges by law enforcement officers or members of fire departments using hazardous substances in carrying out their responsibility to protect public health, safety or welfare. These persons are encouraged to Register, March, 1995, No. 471

report to the department any discharges of a hazardous substance occurring within the performance of their duties.

(3) A discharge by any person discharging in conformity with a permit or program approved under ch. 144, Stats.

(4) The application of a registered pesticide according to the label instructions.

History: Cr. Register, May, 1980, No. 293, eff. 6-1-80; renum. from NR 158.09, Register, April, 1994, No. 460, eff. 5-1-94.