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NR 714 Public Participation and Notification

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NR 714.01 Purpose. The purpose of this chapter is to identify the required public participation notification activities for response actions undertaken pursuant to chs. NR 700 to 754. Nothing in this chapter shall be construed to prevent the department or responsible parties from providing additional means for public participation and notification consistent with the provisions of this chapter. This chapter is adopted pursuant to ss. 227.11 (2), 289.06 (1), and ch. 292, Stats.

NR 714.02 Applicability. This chapter applies to response actions taken under the authority of ch. 292, Stats.

Note: Persons who wish to conduct response actions that will meet the requirements of CERCLA and the National Contingency Plan (NCP) may request that the department enter into a contract with them pursuant to s. 144.442, Stats. However, a CERCLA-quality response action will likely require compliance with additional requirements beyond those contained in chs. NR 700 to 728 in order to satisfy CERCLA and the NCP.

NR 714.03 Definitions. In this chapter:

(1) "Public meeting" means a meeting held for general informational purposes and that is not required by statute.

(2) "Continuing obligations" are property-specific responsibilities of a property owner that are established either before or after the state approves an environmental cleanup, and that apply to the property regardless of changes of ownership. Continuing obligations include but are not limited to environmental limitations or conditions established in the state's closure approval letter.

NR 714.05 Responsibilities of the department. The department shall conduct all of the following public participation and notification activities:

(1) DEPARTMENT DATABASE. The department shall maintain a public database of contaminated sites that are known to the department, in accordance with s. 292.31(1) (a), Stats. This database may include, but is not limited to, sites or facilities that have residual contamination, and shall include information about any continuing obligations to maintain structural or institutional safeguards in regard to the residual contamination, in accordance with s. 292.12(3), Stats. and s. 292.57, Stats.

Note: The department database may be accessed at the following web site:

<http://dnr.wi.gov/org/aw/rr/clean.htm>.

(2) PROPOSED DEPARTMENT-FUNDED REMEDIAL ACTIONS.

(a) For sites or facilities where a department-funded remedial action is proposed pursuant to s. 292.11 or 292.31, Stats., or both, the department shall publish a public notice as a class 1 notice under ch. 985, Stats., upon selection of a proposed remedial action in accordance with ch. NR 708 or 722. The availability of the department's proposed remedial action for public review shall be included in the public notice, including the identification of a department contact person, and his or her phone number and mailing address.

(b) The department shall be responsible for conducting or directing appropriate public participation and notification activities for sites or facilities where a response action is funded wholly or in part by the department and conducted pursuant to s. 292.11 or 292.31, Stats., and where the department is overseeing response actions conducted wholly or in part by responsible parties under a contract signed pursuant to s. 292.31, Stats.

(3) PUBLIC RECORDS. The department shall make available to the public for inspection upon request, in compliance with ss. NR 2.19 and 2.195, site or facility-specific information and decisions concerning response actions.

Note: The public may request a time to view department files regarding the investigation and remediation of contaminated property by contacting the regional environmental program associate. The list of environmental program associates may be accessed at http://dnr.wi.gov/org/aw/rr/technical/lists/contact_rr.htm#epas.

(4) PUBLIC MEETINGS. The department may hold a public meeting to consider comments on any proposed investigation of contamination or any other proposed response action if there is sufficient public interest, or for any other reason.

(5) REQUESTS FOR SITE OR FACILITY SPECIFIC RESPONSES. Interested persons may request, in writing, that the department keep them informed of approvals or rejections of the response actions being taken at a site or facility. The department shall maintain a list of persons interested in a specific site or facility and provide them with copies of any department approvals or rejections for all of the following documents:

(a) Site investigation workplans.

(b) Site investigation reports.

(c) Remedial action options reports.

(d) Requests for case closure.

(6) SUPERFUND. The department shall conduct appropriate public participation activities consistent with 40 CFR part 300, at sites or facilities on the national priorities list, unless U.S. EPA is conducting the public participation activities. The public participation activities shall include the posting of signs at the site or facility in accordance with s. NR 714.07 (4), either by the U.S. EPA, department or the potentially responsible parties.

NR 714.07 Public participation and notification requirements for responsible parties.

(1) EVALUATION OF NEED FOR PUBLIC PARTICIPATION AND NOTIFICATION. In order to promote effective and meaningful public participation and notification, responsible parties shall conduct all necessary public participation and notification activities, unless otherwise directed by the department. Responsible parties shall evaluate the need for and the level of public participation and notification, based on the following criteria:

(a) Threats. Known or potential threats to public health, safety or welfare or the environment that may be reduced by providing information to the public.

(b) Public concern. Level of public concern about a specific site, facility or discharge or the number or status of sites, facilities or discharges which require a response action within a particular geographic area.

(c) Additional information needed. The need to contact the public in order to gather information about the response action, including immediate or interim actions.

(d) Other. Any other factors which may be relevant to a specific site, facility or discharge or to a group of sites, facilities or discharges.

(2) CONTENT OF PUBLIC NOTIFICATION. If responsible parties or the department determine that public notification is necessary at a site or facility, responsible parties shall include, and the department may direct the responsible parties to include specific language regarding, the following information as part of the public notification:

(a) Description. A description of the contamination, including the type, volume and characteristics of the contamination.

(b) Mitigation. Response actions that are planned or underway to contain, reduce or eliminate the threat of the contamination.

(c) Contacts. Phone number and address of persons to contact for more information.

(d) Other. Other information designated by the department.

(3) METHODS OF PUBLIC NOTIFICATION. Notice shall be provided to the public by means designed to reach those members of the public directly or indirectly affected by the discharge of a hazardous substance and the implementation and operation of any proposed or actual remedial action. The department may direct the responsible party to undertake any of the following public participation activities, and may require departmental approval of materials prepared by the responsible party in order to conduct these activities. The department may also undertake any of these activities,

including personal contacts by department staff. Notice to the public may be provided by any of the following methods:

(a) Public notice in local newspapers.

(b) Block advertisements, including but not limited to posters in areas frequented by the public.

(c) Distributing leaflets door-to-door in the vicinity of the site or facility.

(d) Letters to individual households or personal contacts by responsible parties or their representatives.

(e) Contacting appropriate government officials, including but not limited to law enforcement, emergency response and health officials to inform them of the circumstances and the response actions that are underway to contain, reduce or eliminate the threat of the contamination.

(f) Contacting media by preparing radio, newspaper or television announcements, including public service announcements.

(g) Contacting any interested individuals who have asked to be kept informed of site or facility activities at various points in the process, including any other site-specific information itemized by the requestor that is available from the responsible party, including but not limited to sample results, emergency or interim actions, disposal of wastes removed from the site, requests for case closure or enforcement actions.

(h) Holding advertised public informational meetings designed to provide the public an opportunity to ask questions and receive answers from the responsible party, the department, or both.

(i) Establishing a clearinghouse, toll-free telephone number or internet location where the public may obtain more information about the site or facility and the proposed or actual remedial actions, as well as submit comments and receive responses regarding activities that may generate noise, dust, odors, traffic or similar local concerns.

(j) Using any other appropriate mechanisms to contact and inform the public, including the opportunity to submit public comments on proposed remedial activities and to receive written responses.

(4) POSTING OF SIGNS. (a) Unless otherwise directed by the department, responsible parties shall post one or more department-issued signs in the following manner, when any of the following conditions are found at a site or facility:

1. At the edge of the excavated contaminated soil being stored on the site or facility.

2. The specific locations within the facility or site where contaminated media present a direct contact threat to humans.

3. At the entry locations of buildings or structures contaminated with hazardous substances or environmental pollution that pose or may pose a threat to public health, safety or welfare, and where the building or structure will be addressed by one of the response actions for the site or facility.

4. At another location within a site or facility where the department believes unacceptable human exposure to contaminants exists.

(b) The responsible parties shall add to the department-issued sign required in par. (a) all necessary information, including:

1. Name, address and phone number of the owner or operator of the site or facility or responsible parties.

2. Types of hazardous substances or environmental pollution on the property.

3. Department-issued identification number for the site or facility.

4. For signs posted at contaminated soil piles, the anticipated month, day and year of removal of the soil pile.

5. Any other information the department may request.

(c) Responsible parties shall place the signs at locations on the site or facility in accordance with par. (a), so that they shall be visible to the general public, unless the department specifies the location of the sign or signs. At least one sign shall be placed at the edge of contaminated soil storage piles.

(d) Unless otherwise directed by the department, signs required under this subsection shall be maintained and legible for the duration of the response action until final case closure is received in accordance with ch. NR 726, or until no further action is required by the department in accordance with s. NR 708.09.

Note: In addition to the requirements of this chapter, responsible parties are also required to satisfy the public notification requirements in other chapters, including NR 716, NR 722 and NR 725. These requirements include providing information to owners and occupants of property affected by contamination for which the responsible party is conducting environmental response actions. This includes (1) notification of sampling results, and (2) notification that the responsible party will request approval of a remedial action where residual contamination will remain on the property. The department is required to provide notification of the conditions of the final case closure approval to all affected parties.