



WISCONSIN DEPARTMENT OF NATURAL RESOURCES NOTICE OF FINAL GUIDANCE & CERTIFICATION

Pursuant to ch. 227, Wis. Stats., the Wisconsin Department of Natural Resources has finalized and hereby certifies the following guidance document.

DOCUMENT ID

RR-19-0560-C

DOCUMENT TITLE

Immediate Reporting Required for Hazardous Substance Spills

PROGRAM/BUREAU

Remediation and Redevelopment

STATUTORY AUTHORITY OR LEGAL CITATION

Wis. Stats. ch. 292; Wis. Admin. Code ch. NR 700

DATE SENT TO LEGISLATIVE REFERENCE BUREAU (FOR PUBLIC COMMENTS)

26-Aug-19

DATE FINALIZED

02-Sept-19

DNR CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

Signature

September 4, 2019

Date

Immediate Reporting Required for Hazardous Substance Spills

If you are aware of a hazardous substance spill notify the Department of Natural Resources (DNR). State law requires the IMMEDIATE reporting of hazardous substance spills and other discharges to the environment.

**CALL 800-943-0003
TO REPORT SPILLS**

Use **DNR Form 4400-225** to report other hazardous substance discharges



Other hazardous substance discharges, including historical contamination and contamination caused by an ongoing long-term release, discovered during an environmental assessment or laboratory analysis of soil, sediment, groundwater or vapor samples, should be reported to the DNR by filling out and submitting DNR Form 4400-225, "Notification for Hazardous Substance Discharge (Non-Emergency Only)," which is available at dnr.wi.gov.

- ✓ Report hazardous substance discharges as soon as visual or olfactory evidence confirms a discharge or laboratory data is available to document a discharge. **Do not wait to complete a Phase II environmental assessment, or other similar report, to notify the DNR.**

Reporting is everyone's responsibility

Individuals and entities that cause a hazardous substance spill or discharge to the environment are required by state law to notify the DNR immediately - as soon as the spill or discharge is identified. Individuals and entities that own or control property where the spill or discharge occurred must report the discharge immediately if it is not reported by the person or entity that caused the discharge.

For public health and safety, the DNR encourages everyone to report known hazardous substance discharges. Reporting a spill or other discharge, in itself, does not make a person or entity liable for the contamination.

Proper spill containment, cleanup, and disposal is always required

Every person/entity (including lenders and local governments) that causes a hazardous substance discharge, or owns or controls property at which a discharge occurred, must comply with the response action requirements in [Wis. Admin. Chs. NR 700 to 754](#). No spill or discharge is exempt from the duty to properly contain, clean up and dispose of the substance and associated contaminated media, such as soil, water and other affected materials.

Spill reporting exemptions

All spills must be cleaned up, but it is generally not necessary to report recent spills that are:

- less than 1 gallon of gasoline
- less than 5 gallons of any petroleum product other than gasoline
- any amount of gasoline or other petroleum product that is completely contained on an impervious surface
- individual discharges authorized by a permit or program approved under Wis. Stats. Chs. 289 - 299
- less than 25 gallons of liquid fertilizer
- less than 250 pounds of dry fertilizer
- pesticides that would cover less than 1 acre of land if applied according to label instructions
 - * NOTE: Reporting is required if the ongoing, long-term release or application of a permitted pesticide, fertilizer or other substance accumulates to levels that exceed current health or safety standards.
- less than the federal reportable quantities listed in 40 C.F.R. §§ 117 or 302
 - * NOTE: U.S. EPA (federal) spill reporting requirements are outlined on the internet at <https://www.epa.gov/emergency-response/when-are-you-required-report-oil-spill-and-hazardous-substance-release>.

Spill reporting exemptions do not apply (and reporting is required) when:

- the spilled substance has not evaporated or been cleaned up in accordance with Wis. Admin. chs. NR 700 - 754
- the spilled substance is a potential fire, explosion or safety hazard
- the spilled substance causes, or threatens to cause, chronic or acute human health concerns
 - * NOTE: If you are unsure about potential human health effects, consult with local or state health officials.
- the spilled substance adversely impacts, or threatens to impact, the air, lands or waters of the state (as either a single discharge or when accumulated with past discharges) - even if the degree of the impact has not yet been thoroughly evaluated
 - * NOTE: If the substance causes sheen on surface water, has entered or is on the verge of entering the waters of the state, DNR will consider the spilled substance a threat to impact, or to have adversely impacted, waters of the state and reporting is required.

Terms, definitions, statutes and rules

Hazardous substance — Any substance that can cause harm to human health and safety, or the environment, because of where it is spilled, the amount spilled, its toxicity or its concentration. Even common products such as milk, butter, pickle juice, corn, beer, etc., may be considered a hazardous substance if discharged to a sensitive area.

Discharge — Spilling, leaking, pumping, pouring, emitting, emptying, dumping, etc., to land, air or water.

Spill — A discharge that is typically a one-time event or occurrence, and usually inadvertent.

Wis. Stat. § 292.11(2) and Wis. Admin. § NR 706.05 — Require individuals and entities that possess or control a hazardous substance, or that cause the discharge of a hazardous substance to the environment, to notify the DNR immediately about the discharge.

Wis. Stat. § 292.99 — Authorizes penalties up to \$5,000 for each violation of the notification requirement.

Consult [Wis. Stat. Ch. 292](#) and [Wis. Admin. §§ 700 – 754](#), and dnr.wi.gov for further information on hazardous substance spill and discharge reporting, investigation and cleanup.

DNR contact information

To report a discharge call 1-800-943-0003. For more information on the spills program, including [contact information](#), visit dnr.wi.gov, search “Spills”.