

## Chapter NR 704

### CONTINGENCY PLANNING FOR ABANDONED CONTAINER RESPONSE

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**NR 704.01 Purpose.** The purpose of this chapter is to establish criteria and procedures for developing, establishing and amending a contingency plan to be used by the department when responding to abandoned containers of hazardous substances, other than buried containers. This chapter is adopted pursuant to ss. 227.11 (2) and 292.41, Stats.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94; correction made under s. 13.93 (2m) (b) 7., Stats., Register, January, 2001, No. 541.

**NR 704.02 Applicability.** This chapter applies to the department's development, establishment and amendment of a contingency plan for conducting emergency immediate actions in relation to abandoned containers of hazardous substances, as required by s. 292.41, Stats.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94; correction made under s. 13.93 (2m) (b) 7., Stats., Register, January, 2001, No. 541.

**NR 704.03 Definitions.** In this chapter:

(1) "Abandoned container" has the meaning specified in s. 292.41 (1), Stats.

**Note:** Section 292.41 (1), Stats., defines "abandoned container" to mean "any container which contains a hazardous substance and is not being monitored and maintained."

(2) "Container" means any vessel, tank, bag, box, carton, barrel or drum, which holds or encloses an actual or suspected hazardous substance and is not located under or partially under the land surface.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, January, 2001, No. 541.

**NR 704.05 Contingency plan development.** (1) The department shall develop a contingency plan for responding to abandoned containers. The contingency plan shall include all of the following elements:

- (a) Personnel protection measures.
- (b) Procedures for obtaining access to the site.
- (c) Site investigation and documentation procedures.
- (d) Hazardous substance identification procedures.
- (e) Procedures for transportation of hazardous substances.
- (f) Procedures for proper management of hazardous substances.

(2) The contingency plan developed under this section shall be established as an appendix to the department's hazardous substance discharge response contingency plan, required in ch. NR 702.

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

**NR 704.07 Contingency plan amendment and review.** The contingency plan shall be amended by the department when necessary to improve response to abandoned containers of hazardous substances. At a minimum, the plan shall be reviewed by the department at least every 4 years. The department shall maintain records regarding abandoned container response actions and these records shall be taken into account in reviewing the contingency plan.

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

**NR 704.09 Criteria for abandoned container response.** The plan developed under s. NR 704.05 shall contain all of the following criteria to be considered by the department when evaluating a response action for an abandoned container:

- (1) Quantity, toxicity or other threats the hazardous substance presents to public health, safety or welfare or the environment.
- (2) Location and condition of the container.
- (3) Whether an emergency exists, considering the nature of the hazardous substance and the location and condition of its container.
- (4) Costs versus potential threats shall be considered when evaluating abandoned container responses in cases where the actual or potential threat to public health, safety or the environment is low.
- (5) Whether a responsible party can be identified and is able to adequately respond in a timely manner.

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

**NR 704.11 Evaluation of hazardous substance management options.** The contingency plan developed pursuant to s. NR 704.05 shall contain the following criteria for evaluating options for managing hazardous substances found in abandoned containers:

(1) Hazardous substances from abandoned containers shall be managed using technologies that minimize the amount of untreated waste, through the use of recycling or treatment, to the extent feasible.

(2) The following methods for addressing specific hazardous substances shall be considered and analyzed, in order of descending preference:

- (a) Reuse or recycling of any hazardous substance in-state or out-of-state at a facility in compliance with state and federal laws;
- (b) Treatment on-site or in-state in compliance with applicable state and federal laws;
- (c) Treatment at an out-of-state facility in compliance with state and federal laws;
- (d) Disposal on-site or in-state in an engineered unit designed to minimize future releases and in compliance with applicable state and federal laws; and
- (e) Disposal out-of-state at a facility in compliance with state and federal laws;

(3) Before selecting a hazardous substance management option, the department shall evaluate the facility or site selected for management of the hazardous substance, in order to determine, on the basis of available information, if the facility or site complies with current state and federal environmental regulations governing the recycling, treatment, storage or disposal of hazardous substances.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94; r. and recr. Register, April, 1995, No. 472, eff. 5-1-95.