

## Chapter NR 705

### DISCHARGE REPORTING REQUIREMENTS AND SOURCE CONFIRMATION FOR UNDERGROUND STORAGE TANK SYSTEMS

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**NR 705.01 Purpose.** The purpose of this chapter is to adopt by administrative rule certain requirements that are mandated by U.S. EPA for any state agency that wants to obtain authorization to implement the federal underground storage tank program. This chapter is adopted pursuant to ss. 144.76 and 227.11 (2), Stats.

**Note:** The following portions of 40 CFR part 280 have been included in the text of this chapter: s. 280.34 (a) (2); portions of s. 280.34 (a) (3); s. 280.34 (b) (5); s. 280.50 (a) to (c) (1); s. 280.51; s. 280.52; s. 280.53; s. 280.61 (1); s. 280.62 (a) (5); portions of s. 280.63 (a) (1) to (3); portions of s. 280.63 (b); portions of s. 280.72 (a); s. 280.72 (b); and s. 280.73. Additional portions of s. 280.34 (a) (3) are included in chs. NR 708, 716, 722 and 724. Additional portions of ss. 280.63 (a) (1) to (3), and 280.63 (b) are included in chs. NR 708 and 716. Additional portions of s. 280.72 (a) are included in ch. ILHR 10.

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

**NR 705.02 Applicability. (1)** This chapter applies to any person who owns or operates an underground storage tank system that is subject to regulation under 42 USC 6991 et seq. and 40 CFR part 280, or ch. ILHR 10, for hazardous substance discharges that are related to the UST system.

**Note:** The definition of "underground storage tank" in s. NR 700.03 (66), which applies to this chapter, is based on the definition of "underground storage tank" in ch. ILHR 10, which includes certain farm and residential motor fuel storage tanks and heating oil tanks that are excluded from the federal UST program definition in 42 USC 6991.

**(2)** Notification to the department of the discharge of a hazardous substance which complies with the reporting requirements of this chapter also satisfies the immediate reporting requirements of s. NR 158.05.

**Note:** All discharges of hazardous substances are required to be immediately reported under s. NR 158.05. However, it is not necessary to report a discharge from an underground storage tank system twice, because reporting in compliance with the requirements of this chapter also satisfies the reporting requirements of s. NR 158.05.

**(3)** Persons and facilities subject to the release notification requirements in CERCLA s. 103 (a), 42 USC 9603 (a), or the emergency notification and reporting requirements in s. 166.20, Stats., and 42 USC 11004, 11021, 11022 and 11023, are required to comply with those requirements in addition to complying with the reporting requirements of this chapter, except that notification of a hazardous substance discharge which is given to the department in compliance with the requirements of this chapter constitutes notification of the state emergency response board as required by s. 166.20, Stats., if the notification contains all of the information specified in 42 USC 11004 (b) (2).

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

**NR 705.03 Definitions.** The definitions in s. NR 700.03 apply to this chapter.

**Note:** The term "UST" which is an acronym for "underground storage tank" is defined in s. NR 700.03 (66).

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

**NR 705.05 Reporting obligations. (1) DISCHARGE NOTIFICATION.** (a) Owners or operators of UST systems shall immediately notify the department of a spill, overfill or other discharge or suspected discharge of a hazardous substance that is related to the UST system.

(b) Evidence which indicates that a discharge of a hazardous substance has occurred or may have occurred includes, but is not limited to: visible soil contamination; the presence of free product or vapors in soils, basements, sewers or utility lines, or on surface water or groundwater in the surrounding area; and the receipt of reports, environmental assessments or routinely gathered monitoring data which indicates that a discharge of a hazardous substance has occurred or may have occurred.

(c) Reporting of hazardous substance discharges to the department shall be made by telephoning, telefaxing or visiting a district office of the department during normal business hours or by telephoning a department-designated 24-hour hotline telephone number after normal business hours.

(d) The notification required by this subsection shall contain the elements listed in s. NR 705.07 to the extent possible.

**Note:** Directories for the telephone numbers of the department's district offices can be found in local telephone books and in department guidance. The department's 24-hour hotline is operated by the division of emergency government and can be reached at (608) 266-3232. The 24-hour hotline will accept collect calls.

**(2) CLOSURE ASSESSMENT REPORTS.** The owner or operator of the UST system shall submit to the department any tank closure assessment report that is generated to document compliance with the requirements of s. ILHR 10.734 or 10.805, regardless of whether a discharge of a hazardous substance was detected during the site assessment.

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

**NR 705.07 Initial notification. (1)** The person who notifies the department of a hazardous substance discharge from a UST system shall provide as much of the following information as possible to assist the department and other entities in properly assessing and responding to the discharge:

(a) Name, address and telephone number of the person reporting the discharge.

(b) Name, address and telephone number of the owner and operator of the UST system and any other potentially responsible persons.

(c) Date, time and duration of the discharge.

(d) Location of the discharge, including street address;  $\frac{1}{4}$ ,  $\frac{1}{2}$  section; and legal description of lot, if located in platted area.

(e) Identity, physical state and quantity of the hazardous substance discharged.

(f) Physical, chemical and hazardous characteristics of the hazardous substance.

(g) Cause of the discharge.

(h) Immediate actions being taken and the name of the contractor or other person performing the actions.

(i) Source, speed of movement and destination or probable destination of the discharged hazardous substance.

(j) Local soil type and topography in the area of the discharge and distance to surface water.

(k) Any known or anticipated acute or chronic human health impacts associated with the hazardous substance discharged and, where appropriate, advice regarding medical attention necessary for exposed individuals.

(l) Actual and potential impacts to the environment, including drinking water supplies.

(m) Weather conditions existing at the scene, including presence of precipitation and wind direction and velocity.

(2) The owner or operator of the UST system shall document and submit to the department, within 72 hours of the original notification, any additional information that they obtain which was not included at the time of the original notification, unless otherwise directed by the department.

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

**NR 705.09 Indication of a discharge from a discharge monitoring system.** (1) When the discharge monitoring system of an UST system indicates that a discharge of a hazardous substance may have occurred, the owner or operator of the UST system shall determine immediately whether the indication was due to a malfunction of the discharge monitoring equipment.

(2) If the discharge monitoring equipment is found to be malfunctioning, and there is no other reason to suspect that a discharge of a hazardous substance has occurred, the owner or operator of the UST system shall repair, recalibrate or replace the equipment in accordance with all applicable statutes and rules. Notification of the department is not necessary if there is no reason to suspect a discharge.

(3) If the discharge monitoring equipment is found to be working correctly, the owner or operator of the UST system shall immediately report the suspected or confirmed discharge to the department in accordance with the requirements of s. NR 705.05.

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(4) If testing or inspection of discharge monitoring equipment is inconclusive, the owner or operator of the UST system shall conduct another test, expand the scope of their inspection, conduct tank system tightness tests, or excavate the area where a discharge is suspected, as necessary, to determine whether or not a discharge of a hazardous substance has occurred.

(5) If investigation of unusual operating conditions, such as the erratic behavior of product dispensing equipment, the sudden loss of product from the system, or an unexplained presence of water in the tank, indicates that a release may have occurred, the owner or operator of the UST system shall immediately report the suspected or confirmed discharge to the department in accordance with the requirements of s. NR 705.05.

Note: Chapter ILHR 10 contains requirements governing methods of release detection for underground storage tanks.

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

**NR 705.11 Discharge source confirmation.** (1) EVIDENCE OF A DISCHARGE. (a) If there is evidence of the discharge of a hazardous substance to the environment which may be from a UST system, the owner or operator of the UST system shall, within 10 days, undertake all steps necessary to determine whether the UST system is the source of the discharge.

(b) Evidence of a discharge which may be from a UST system includes, but is not limited to, visible soil contamination and the presence of free product or vapors in soils, basements, sewers or utility lines, or on surface water or groundwater in the surrounding area.

(2) SYSTEM INTEGRITY TESTS. (a) When a discharge monitoring system indicates a hazardous substance discharge may have occurred or there is other evidence of a hazardous substance discharge to the environment, the owner or operator of the UST system shall conduct the appropriate tests for tightness specified in ch. ILHR 10 to determine whether a leak exists in the tank or the attached piping, or both.

(b) Further investigation is not required if the test results for the system, tank and piping do not indicate that a leak exists and if there is no other indication of a discharge of a hazardous substance from the UST system.

(c) If the tests do not indicate that a leak exists, but there is other evidence of a hazardous substance discharge to the environment which may be associated with the UST system, the department may require the owner or operator of a UST system to undertake other measures to determine whether contamination is associated with the UST system, including the identification and investigation of potential migration pathways from the UST system to the location where contamination is discovered.

(3) SITE CHECK. (a) If there is evidence of the discharge of a hazardous substance to the environment which may be from a UST system, but system integrity tests conducted under sub. (2) do not indicate that a leak exists, the owner or operator shall collect samples for laboratory analysis from areas where contamination is most likely to be present at the UST site, unless the presence and source of the discharge have been confirmed in a closure assessment site check.

(b) In selecting sample types, sample locations and measurement methods, the owner or operator shall consider the nature of the stored substance, the type backfill, depth to groundwater and other factors as appropriate for identifying the presence and source of the release.

**(4) REPORTING A CONFIRMED DISCHARGE.** When UST system integrity test results or sampling results indicate that a discharge of a hazardous substance has occurred, the owner or operator of the UST system shall report the confirmed discharge immediately in accordance with the requirements of s. NR 705.05.

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

**NR 705.13 Evaluation of hazardous substance discharge for appropriate actions.** Unless the department determines that no further action is warranted in accordance with s. NR 708.09, if there is evidence of the discharge of a hazardous substance to the environment from a UST system, the owner or operator of the UST system shall conduct all necessary response actions including, but not limited to, the actions listed in subs. (1) to (4), either at the direction of the department or where the owner or operator has determined that conditions at the site or facility warrant additional response action:

(1) Discharge source confirmation, as required in s. NR 705.11.

(2) An emergency or non-emergency immediate action or interim action, as required in ch. NR 708.

(3) A site investigation.

(4) Implementation of a preventive measures plan to minimize any further hazardous substance discharges.

**Note:** Although the department may determine that no further response action is necessary pursuant to chs. NR 700 to 726, the site or facility may be subject to the rules and requirements of other department programs, other state laws and federal laws.

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

**NR 705.15 Underground storage tank response action status report.** The owner or operator of every UST system for which a response action has been taken to respond to the discharge of a hazardous substance that is related to the UST system shall annually report to the department on the status of all response activities undertaken to restore the environment to the extent practicable and to minimize the harmful effects to the environment of the discharge from their UST system. This annual report shall be on a form supplied by the department, and shall be submitted by June 30th of each year, until the case has been closed by the department in accordance with ch. NR 726.

**Note:** Copies of the annual status report form required by this section are available from the Emergency and Remedial Response Section, Bureau of Solid & Hazardous Waste Management, Wisconsin Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707.

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