

Chapter NR 700

GENERAL REQUIREMENTS

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Note: Corrections made under s. 13.93 c2md cbd 7., Stats., [Register, February, 1997, No. 494.](#)

NR 700.01 Purpose. c1d The purpose of this chapter is to provide definitions of terms used in chs. [NR 700 to 754](#), to incorporate by reference specified regulations or materials, and to grant confidential status for records, reports and other information furnished to or obtained by the department for use in the administration of chs. [NR 700 to 754](#).

c2d The purpose of chs. [NR 700 to 754](#) is to establish consistent, uniform standards and procedures that allow for site-specific flexibility, pertaining to the identification, investigation and remediation of sites and facilities which are subject to regulation under chs. [289 and 292](#), Stats. The department intends that responsible parties and other interested persons should be able to efficiently move through the process set forth in chs. [NR 700 to 754](#) with minimal department oversight, except where the department has specified that more in-depth oversight is needed such as under s. [292.15](#) or s. [292.65](#), Stats., or through an enforceable order or agreement. These rules are adopted pursuant to ch. [160](#), Stats., ss. [227.11 c2d](#), [281.19 c1d](#), [287.03 c1d cad](#), [289.05 c1d](#), [289.06](#), [289.31 c7d](#), [289.43 c8d](#), [291.05 c6d](#), Stats., and ch. [292](#), Stats.

History: Cr. [Register, April, 1994, No. 460](#), eff. 5-1-94; am. [Register, February, 1996, No. 482](#), eff. 3-1-96; [CR 12-023](#): am. c1d, c2d [Register October 2013 No. 694](#), eff. 11-1-13.

NR 700.02 Applicability. c1d This chapter and chs. [NR 702, 704, and 708 to 754](#) apply to actions taken by the department under the authority of chs. [289 and 292](#), Stats.

c2d This chapter and chs. [NR 706 to 754](#) apply to actions taken by responsible parties at sites, facilities or portions of a site or facility that are subject to regulation under chs. [289 and 292](#), Stats., regardless of whether there is direct involvement or oversight by the department.

Note: The department of agriculture, trade and consumer protection has the authority under s. [94.73](#), Stats., to issue corrective action orders to parties who are responsible for the discharge of an agricultural chemical, to require that the responsible parties take action that is necessary to restore the environment to the extent practicable and to minimize the harmful effects of the discharge to the air, lands or waters of this state. The department of agriculture, trade and consumer protection has confirmed their intention to require that this chapter and chs. [NR 708 to 727 and 749](#) be applied to actions taken by responsible parties as directed by the department of agriculture, trade and consumer protection under s. [94.73](#), Stats. For actions directed by the department of agriculture, trade and consumer protection under s. [94.73](#), Stats., submittals under chs. [NR 708 to 727 and 749](#) shall be sent to the department of agriculture, trade and consumer protection, and approvals required by these chapters shall be obtained from the department of agriculture, trade and consumer protection.

Note: Persons who are not responsible parties and who voluntarily take a response action at a site or facility that is subject to regulation under ch. [289](#), Stats., or s. [292.31](#) or [292.11](#), Stats., are not required to comply with the standards and procedures in chs. [NR 700 to 754](#) unless the person is seeking the liability exemption under s. [292.15](#), Stats. However, the department may not consider case closure under ch. [NR 726](#) for the site or facility until the applicable rules in chs. [NR 700 to 754](#) have been complied with, and a person who did not originally fall within the definition of a responsible party may become a responsible party if the actions taken by that person cause or worsen the discharge of a hazardous substance or if the person takes possession or control of the site or facility.

Note: Persons who wish to conduct response actions that will be consistent with

the requirements of CERCLA and the National Contingency Plan cNCPd may request that the department enter into a contract with them pursuant to s. [292.31](#) or a negotiated agreement under s. [292.11 c7d cdd](#), Stats. However, a CERCLA-quality response action will likely require compliance with additional requirements beyond those contained in chs. [NR 700 to 754](#) in order to be consistent with CERCLA and the NCP.

c2md This chapter and chs. [NR 706 to 728, 750, and 754](#) apply to actions taken by persons who are seeking a liability exemption under s. [292.15](#), Stats.

c3md The department may exercise enforcement discretion on a case-by-case basis and choose to regulate a site, facility or a portion of a site or facility under only one of a number of potentially applicable statutory authorities. However, where overlapping restrictions or requirements are applicable, the more restrictive shall control. The department shall, after receipt of a written request and appropriate ch. [NR 749](#) fee from a responsible party, provide a letter that indicates which regulatory program or programs the department considers to be applicable to a site or facility.

Note: Sites or facilities or portions of a site or facility that are subject to regulation under ch. [292](#), Stats., may also be subject to regulation under other statutes, including the solid waste statutes in ch. [289](#), Stats., or the hazardous waste management act, ch. [291](#), Stats., and the administrative rules adopted pursuant to these statutes. In addition, federal laws such as CERCLA, RCRA, or TSCA may also apply to a site or facility or portions of a site or facility. One portion of a site or facility may be regulated under a different statutory authority than other portions of that site or facility.

History: Cr. [Register, April, 1994, No. 460](#), eff. 5-1-94; renum. c3d and c4d to be c5d and c6d, cr. c3d, [Register, March, 1995, No. 471](#), eff. 4-1-95; cr. c4d, [Register, April, 1995, No. 472](#), eff. 5-1-95; am. c1d, c3d cintro.d, cad and cbd, c4d, c5d, cr. c2md, c3d cdd, c4d cbd, c5d cbd, [Register, February, 1996, No. 482](#), eff. 3-1-96; am. c2d, [Register, February, 1997, No. 494](#), eff. 3-1-97; correction in c3d cad made under s. [13.93 c2md cbd 7.](#), Stats., [Register, January, 2001, No. 541](#); correction in c3d cbd made under s. [13.93 c2md cbd 7.](#), Stats., [Register September 2007 No. 621](#); [CR 12-023](#): am. c1d, c2d, c2md, r. c3d to c5d, renum. c6d to c3md and am. [Register October 2013 No. 694](#), eff. 11-1-13.

NR 700.03 Definitions. The following definitions apply to chs. [NR 700 to 754](#):

c1ed XAgency with administrative authorityY or XagencyY has the meaning specified in s. [292.12 c1d cad](#), Stats.

Note: Section [292.12 c1d cad](#), Stats., reads: XAgency with administrative authorityY means the department of agriculture, trade and consumer protection with respect to a site over which it has jurisdiction under s. [94.73 c2d](#) or the department of natural resources with respect to a site over which it has jurisdiction under s. [292.11 c7d](#).

c1md XApproveY or XapprovalY means a written acceptance by the department of a plan, report or other document that has been submitted to the department for review.

c1sd XAttenuation factorY means the ratio of the indoor air concentration arising from vapor intrusion to the subsurface vapor concentration at a point or depth of interest in the vapor intrusion pathway.

Note: Under ch. [NR 720](#), the department allows the use of default attenuation factors from US EPA guidance, or the responsible party may collect enough information to develop a site-specific attenuation factor.

c2d XBackground soil qualityY means:

cad Soil quality that is attributable to the parent material from which the soil was derived and the natural processes which pro-

duce soil, or from contamination attributable to atmospheric deposition including the following constituents; lead, polynuclear aromatic hydrocarbons, or polychlorinated biphenyls, but not attributable to hazardous substance discharges or the discharge of pollutants, as that phrase is defined in s. 283.01, Stats.

cbd Soil quality that is found at or within reasonable proximity to the site or facility, at a depth comparable to that of the area to be remediated, in the same soil layer and in an area unaffected by hazardous substances discharges or the discharge of pollutants.

c3d XBusiness daysY means Monday through Friday excluding the holidays listed in s. 230.35 c4d cad, Stats.

c3md XCase closureY has the meaning specified in s. 292.12 c1d cbd, Stats.

Note: Under s. 292.12 c1d cbd, Stats., Xcase closureY means Xa determination by the agency with administrative authority, based on information available at the time of the review by the agency with administrative authority, that no further remedial action is necessary at a site.Y

c4d XCERCLAY means the federal comprehensive environmental response, compensation and liability act cCERCLAd, 42 USC 9601 to 9675.

c4md XCERCLISY means the comprehensive environmental response, compensation and liability information system, as compiled by the U.S. EPA.

Note: The federal CERCLIS list is available from the U. S. EPA, by writing to: WI Freedom of Information Act Officer, U.S. EPA Region V, 77 W. Jackson Blvd, Chicago, IL 60604.

c5d XCFRY means the code of federal regulations.

c6d XConsultantY means a person or business under contract to perform a response action taken under, or subject to regulation under, chs. NR 702 to 754.

c6md XContaminated site boundaryY or Xcontaminated site boundariesY means any area within which a hazardous substance has been discharged such that the air, land, or waters have been affected by a discharge or where environmental pollution exists.

Note: Both the source property and other properties affected by the discharge may be included within the Xcontaminated site boundary.Y Sub. c59md defines Xsource propertyY as Xthe property on which the hazardous substance discharge which is under investigation or cleanup, originally occurred.Y Other properties may be affected by migration of the hazardous substance through soil or groundwater.

c7d XContaminationY or XcontaminatedY means:

cad Where the air, land or waters of the state have been affected by the discharge of a hazardous substance; or

cbd Where environmental pollution exists.

c8d XContingency planY means a document setting out an organized, planned and coordinated course of action to be followed in the event of a hazardous substance discharge or imminent threat of a hazardous substance discharge.

c9d XDayY means calendar day, except where the phrase Xbusiness dayY is used.

c10d XDebrisY means material resulting from the construction, demolition or razing of buildings, roads and other structures and materials that have been discarded at a site or facility.

c11d XDepartmentY means the department of natural resources.

c11md XDepartment databaseY means the publicly accessible database available on the internet as required by ss. 292.12, 292.31, and 292.57, Stats.

Note: The Remediation and Redevelopment Program maintains a database called the XBureau for Remediation and Redevelopment Tracking SystemY or XBRRTSY. The program also maintains an internet accessible version of this database, called XBRRTS on the WebY, or XBOTWY. XBOTWY includes information on properties where a hazardous substance discharge has or may have taken place. The program also maintains a web-based mapping system called XRemediation and Redevelopment Sites MapY or XRRSMY, that allows users to view information from the BRRTS database using a geographic information system cGISd applica-

tion. Both these applications may be found at <https://dnr.wisconsin.gov/topic/Brownfields/WRRD.html>.

c12d XDepartment-funded response actionY means a response action undertaken by the department using the authority of s. 292.11, 292.31 or 292.41, Stats., which is funded in whole or in part by appropriations in s. 20.370 c2d or 20.866 c2d, Stats.

c13d XDischargeY has the meaning specified in s. 292.01 c3d, Stats.

Note: Under s. 292.01 c3d, Stats., XdischargeY means, but is not limited to, Xspilling, leaking, pumping, pouring, emitting, emptying or dumping.Y

c14d XDisposeY or XdisposalY means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid or hazardous waste into or on any land or water in a manner which may permit the waste to be emitted into the air, to be discharged into any waters of the state or otherwise to enter the environment.

c15d XEmergencyY means a situation which requires an immediate response to address an imminent threat to public health, safety, or welfare or the environment.

c16d XEnforcement standardY has the meaning specified in s. NR 140.05 c7d.

Note: Section NR 140.05 c7d defines Xenforcement standardY to mean Xa numerical value expressing the concentration of a substance in groundwater which is adopted under s. 160.07, Stats., and s. NR 140.10 or s. 160.09, Stats., and s. NR 140.12.Y

c17d XEngineering controlY has the meaning specified in s. 292.01 c3md, Stats.

Note: Under s. 292.01 c3md, Stats., Xengineering controlY means an Xaction designed and implemented to contain contamination or to minimize the spread of contamination, including a cap, soil cover, or in-place stabilization, but not including a sediment cover.Y

c18d XEnvironmentY means any plant, animal, natural resource, surface water including underlying sediments and wetlands, groundwater, drinking water supply, land surface and subsurface strata, and ambient air within the state of Wisconsin or under the jurisdiction of the state of Wisconsin.

c19d XEnvironmental pollutionY has the meaning specified in s. 291.01 c4d, Stats.

Note: Section 291.01 c4d, Stats., defines Xenvironmental pollutionY to mean Xthe contamination or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.Y

c20d XEnvironmental standardsY mean those cleanup standards, performance standards, standards of control and other substantive and procedural requirements, criteria or limitations promulgated as a regulation or rule under or pursuant to federal environmental or state environmental or facility citing laws that specifically address a hazardous substance, pollutant, remedial action, location or other circumstances found at a site or facility.

c21d XFacilityY means Xapproved facilityY as defined in s. 289.01 c3d, Stats., Xapproved mining facilityY as defined in s. 292.01 c1md, Stats., and Xnonapproved facilityY as defined in s. 289.01 c24d, Stats.

Note: Under s. 289.01 c3d, Stats., Xapproved facilityY means Xa solid or hazardous waste disposal facility with an approved plan of operation under s. 289.30 or a solid waste disposal facility initially licensed within 3 years prior to May 21, 1978, whose owner successfully applies, within 2 years after May 21, 1978, for a determination by the department that the facility's design and plan of operation comply substantially with the requirements necessary for plan approval under s. 289.30.Y Under s. 292.01 c1md, Stats., Xapproved mining facilityY is defined by reference to the definition of approved mining facility in s. 289.01 c4d, Stats., and also includes a mining waste site as defined in s. 295.41 c31d, Stats. XApproved mining facilityY as defined in s. 289.01 c4d means Xan approved facility which is part of a mining site, as defined under s. 293.01 c12d, used for the disposal of solid waste resulting from mining, as defined under s. 293.01 c9d, or prospecting, as defined under s. 293.01 c18d.Y Chapter 293, Stats., applies to nonferrous metallic mining. XMining waste siteY as defined under s. 295.41 c31d, Stats., means any land or appurtenances thereto used for the storage or disposal of ferrous mining waste. Subch. III of ch. 295, Stats., applies to ferrous metallic mining. XNonapproved facilityY as defined in s. 289.01 c24d, Stats., means Xa licensed solid or hazardous waste disposal facility which is not an approved facility.Y

c22d XFree productY means a discharged hazardous sub-

stance or environmental pollution that is present in the environment as a floating or sinking non-aqueous phase liquid.

c23d XGroundwaterY has the meaning specified in s. 160.01 c4d, Stats.

Note: Section 160.01 c4d, Stats., defines XgroundwaterY to mean Xany waters of the state, as defined in s. 281.01 c18d, Stats., occurring in a saturated subsurface geological formation of rock or soil.Y See Xwaters of the stateY definition in sub. c67d.

c24d XGroundwater quality standardsY mean site-specific standards developed pursuant to ch. NR 140 and groundwater quality standards adopted by the department in ch. NR 140, including enforcement standards, preventive action limits, indicator parameters and alternative concentration levels.

c25d XHazardous substanceY has the meaning specified in s. 299.01 c6d, Stats.

Note: Section 299.01 c6d, Stats., defines Xhazardous substanceY to mean Xany substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department.Y

c26d XHazardous wasteY has the meaning specified in s. 291.01 c7d, Stats.

Note: Section 291.01 c7d, Stats., defines Xhazardous wasteY to mean any Xsolid waste identified by the department as hazardous under s. 291.05Y Federal laws and rules may have broader or different definitions than the state does. If so, federal hazardous waste laws must be complied with, in addition to state laws.

c27d XHigh groundwater levelY means the higher of the elevation to which the soil is saturated and observed as a free water surface in an unlined hole, or the elevation to which the soil has been seasonally or periodically saturated as indicated by soil color patterns throughout the soil profile.

c28d XImmediate actionY means a response action that is taken within a short period of time after the discharge of a hazardous substance occurs, or after the discovery of a hazardous substance discharge or environmental pollution, to halt the discharge, contain or remove discharged hazardous substances or remove contaminated environmental media, in order to restore the environment to the extent practicable and to minimize the harmful effects of the discharge to air, lands and waters of the state and to eliminate any imminent threat to public health, safety, or welfare that may exist. This term includes both emergency and non-emergency immediate actions.

Note: Examples of immediate actions may be found in s. NR 708.05 c4d. If further action will be required after a non-emergency response action is taken, that action would meet the definition of Xinterim actionY in s. NR 700.03 c29d. The principal distinction between a non-emergency, immediate action and an interim action is that a site investigation will generally be required in conjunction with an interim action, but not with a non-emergency immediate action. In addition, interim actions will be closed out using the criteria in ch. NR 726, not the Xno further actionY criteria in s. NR 708.09 which apply at the completion of an immediate action.

c28md XIndustrial land useY means the utilization of a parcel of real estate for manufacturing operations that use machinery and mechanical power to produce products or services, including electrical power, or for a service business that provides storage facilities, product distribution or maintenance or repair services for machinery.

Note: Examples of industrial land uses include manufacturing and assembly plants; warehouses; scrap salvage operations; foundries and forging plants; metal pressing, stamping and spinning plants; electroplating facilities; tanneries; chemical processing facilities; electrical generating plants and electrical substations; slaughter houses and meat processing plants; fertilizer and pesticide packaging plants; bottling plants; wholesale bulk fuel storage and distribution facilities; railroad yards; and businesses that sell and repair motor vehicles, recreational vehicles, transportation containers or construction machinery and equipment.

c29d XInterim actionY means a response action taken to contain or stabilize a discharge of a hazardous substance, in order to minimize any threats to public health, safety, or welfare or the environment, while other response actions are being taken or planned for the site or facility.

Note: Examples of interim actions may be found in s. NR 708.11. Xinterim actionY does not include emergency or non-emergency immediate actions. An interim action is followed by subsequent response actions at the site or facility, unless the department determines in compliance with the requirements of ch. NR 726, that no further response action is necessary after a site investigation has been conducted.

c30d XInterim action options reportY means a report which identifies and evaluates various interim action options with the goal of selecting an option which meets the environmental standards for the interim action being undertaken.

c30gd XLimit of detectionY has the meaning specified in s. NR 149.03 c41d.

Note: Section NR 149.03 c41d defines Xlimit of detectionY or XLODY to mean Xthe lowest concentration or amount of analyte that can be identified, measured, and reported with confidence that the concentration is not a false positive value.Y For department purposes, the LOD approximates the method detection limit cMDLd and is determined by the method cited in s. NR 149.03 c46d cMDLd. See sub. c33md for MDL.

c30rd XLimit of quantitationY has the meaning specified in s. NR 149.03 c42d.

Note: Section NR 149.03 c42d defines Xlimit of quantitationY or XLOQY to mean Xthe lowest concentration or amount of an analyte for which quantitative results can be obtained.Y

c31d XLong-term monitoringY means systematic evaluation of the selected remedial or interim action option through collection and inspection of soil data, groundwater data, surface water data, sediment data, and other relevant data.

c32d XManagement of a hazardous substanceY means the treatment, storage or disposal, including recycling, of a hazardous substance.

c33d XMediaY means air, surface water, groundwater, sediments and land surface and subsurface strata, including soil.

c33md XMethod detection limitY or XMDLY has the meaning specified in s. NR 149.03 c46d.

Note: Section NR 149.03 c46d defines the Xmethod detection limitY to mean Xthe minimum concentration of an analyte that can be measured and reported with 99% confidence that the stated concentration is greater than zero, determined from analyses of a set of samples containing the analyte in a given matrix. The method detection limit is generated according to the protocol specified in 40 CFR 136, Appendix B.Y

c34d XMigration pathwayY means natural geologic features or cultural features, including but not limited to water mains, sewage laterals, drain tiles and road beds, which allow the movement of a hazardous substance or environmental pollution in liquid, solid, dissolved or vapor phase.

c34md XMinority businessY means a business certified by the department of safety and professional services pursuant to s. 16.287 c2d, Stats.

c35d XMunicipal populationY means the number of people residing in the municipality according to the most recent department of administration estimates.

c36d XMunicipalityY has the meaning specified in s. 292.01 c11d, Stats.

Note: Section 292.01 c11d, Stats., defines XmunicipalityY to mean, Xany city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district, or metropolitan sewage district.Y

c37d XNational priorities listY means the list, compiled by the U.S. environmental protection agency cEPAd pursuant to section 105 c8d cbd of CERCLA, of hazardous substance releases in the United States that are priorities for investigation and remedial action.

c38d XNational contingency planY or XNCPY means 40 CFR part 300.

c38md XNatural attenuation[[means the reduction in the concentration and mass of a substance and its breakdown products in groundwater, due to naturally occurring physical, chemical, and biological processes without human intervention or enhancement. These processes include, but are not limited to, dispersion, diffusion, sorption and retardation, and degradation pro-

cesses such as biodegradation, abiotic degradation and radioactive decay.

c39d XNaturally occurring backgroundY means the quality of individual media in the vicinity of a discharge of a hazardous substance or environmental pollution that has not been affected by a hazardous substance discharge or environmental pollution.

c39md XNon-residential settingY means a setting other than a residential setting, used for commercial or industrial purposes.

c40d XOperation and maintenanceY means measures designed to monitor, operate and maintain the effectiveness of response actions.

c41d XOperatorY has the meaning specified in s. 292.31 c8d cad 1., Stats.

Note: Section 292.31 c8d cad 1., Stats., defines XoperatorY to mean Xany person who operates a site or facility or who permits the disposal of solid waste at a site or facility under his or her management or control for consideration, regardless of whether the site or facility remains in operation and regardless of whether the person operates or permits the disposal of solid waste at the time any environmental pollution occurs. This term includes a subsidiary or parent corporation.Y

c42d XOwnerY has the meaning specified in s. 292.31 c8d cad 2., Stats.

Note: Section 292.31 c8d cad 2., Stats., defines XownerY to mean Xany person who owns or who receives direct or indirect consideration from the operation of a site or facility regardless of whether the site or facility remains in operation and regardless of whether the person owns or receives consideration at the time any environmental pollution occurs. This term includes a subsidiary or parent corporation.Y

c42md XPathwayY means the route a substance takes in traveling to a receptor or potential receptor or the specific portal of entry, such as lungs, skin or digestive tract, that the substance takes to potentially express its toxic effect, or both.

Note: The food chain pathway for cadmium, for example, refers to cadmium being taken up in plant tissue and the plant tissue being ingested by an organism.

c43d XPersonY has the meaning specified in s. 292.01 c13d, Stats.

Note: Section 292.01 c13d, Stats., defines XpersonY to mean Xan individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency, or federal agency.Y

c43gd XPhase I environmental site assessmentY means an assessment of a site to identify potential or known areas of environmental contamination. This assessment may include reviewing records, interviewing persons, and conducting physical inspections of the site.

c43rd XPhase II environmental site assessmentY means an assessment of a site to physically confirm that contamination exists in potential or known areas of environmental contamination identified in the Phase I environmental assessment, but not to determine the nature, degree and extent of contamination. This assessment may include field sampling of media, laboratory analysis of samples and visual confirmation of environmental contamination at the site.

Note: The department recommends that at a minimum, the current ASTM standards be followed when conducting Phase I and Phase II environmental assessments. When a person is seeking liability protections under CERCLA the person should follow EPA[s requirements. See EPA[s web page at: www.epa.gov for more information.

c44d XPoint of standards applicationY has the meaning specified in s. NR 140.05 c15d.

Note: Section NR 140.05 c15d defines Xpoint of standards applicationY to mean Xthe specific location, depth or distance from a facility, activity or practice at which the concentration of a substance in groundwater is measured for purposes of determining whether a preventive action limit or an enforcement standard has been attained or exceeded.Y

c45d XPracticableY means capable of being implemented, taking into account:

cad The technical feasibility of a remedial action option, considering its long-term effectiveness, short-term effectiveness, implementability and the time it will take until restoration is achieved; and

cbd The economic feasibility of a remedial action option,

considering the cost of the remedial action option compared to its technical feasibility.

c45ed XPropertyY means a contiguous area of land the entire legal description of which is found in one deed.

c45md XProperty boundary[[means the boundary of the property owned or leased by a common owner or lessor, regardless of whether public or private roads run through the property.

c46d XPreventive action limitY has the meaning specified in s. NR 140.05 c17d.

Note: Section NR 140.05 c17d defines Xpreventive action limitY to mean Xa numerical value expressing the concentration of a substance in groundwater which is adopted under s. 160.15, Stats., and s. NR 140.10, 140.12 or 140.20.Y

c46md XRCRAY means the resource conservation and recovery act, 42 USC 6901 to 6991i, as amended on November 8, 1984.

c47d XReceptorY means environmental resources, including but not limited to, plant and animal species and humans, sensitive environments and habitats, water supply wells, and buildings or locations that have the potential to be, or have actually been, exposed to contamination.

c48d XRemedial actionY or XremedyY means those response actions, other than immediate or interim actions, taken to control, minimize, restore, or eliminate the discharge of hazardous substances or environmental pollution so that the hazardous substances or environmental pollution do not present an actual or potential threat to public health, safety, or welfare or the environment. The term includes actions designed to prevent, minimize, stabilize, or eliminate the threat of discharged hazardous substances, and actions to restore the environment to the extent practicable and meet all applicable environmental standards. Examples include storage, disposal, containment, treatment, recycling, or reuse, and any monitoring required to assure that such actions protect public health, safety, and welfare and the environment.

c49d XRemedial action options reportY means a report which identifies and evaluates various remedial action options with the goal of selecting an option in compliance with the requirements of s. NR 722.11.

c49gd XResidential settingY means any dwelling designed or used for human habitation, and includes educational, child-care, and elder care settings.

c49rd XResidual contaminationY means that some contamination remains after a cleanup is completed and approved. Residual contamination includes all phases of remaining contamination including vapor, dissolved, adsorbed, and free-phase.

Note: The term Xresidual contaminationY does not have the same meaning as the terms Xresidual phaseY, Xresidual concentrationY or Xresidual contaminant level.Y The terms Xresidual phaseY and Xresidual cphased concentrationY are used in some publications and are used when referring to the free-phase or separate non-aqueous phase liquid in soil or groundwater. The term Xresidual contaminant levelY is used in ch. NR 720 to refer to soil standards developed under that chapter.

c50d XResponseY or Xresponse actionY means any action taken to respond to a hazardous substance discharge or to environmental pollution, including emergency and non-emergency immediate actions, investigations, interim actions and remedial actions.

c51d XResponsible partyY or Xresponsible partiesY means any of the following:

cad Any person who is required to conduct a response action under ch. 292, Stats.

cbd Persons liable to reimburse the department for the costs incurred by the department to take response action under chs. 289 and 292, Stats.

ccd Owners and operators of solid waste facilities that are subject to regulation under ch. NR 508.

c52d XRestoreY or XrestorationY means those actions necessary to return the environment to its original condition before the hazardous substance discharge or environmental pollution occurred. Such actions may include, but are not limited to, the replacement or removal of injured plant and animal life and treatment of contaminated soils.

Note: This definition was formerly found in s. NR 158.04 c5d.

c52md XRight[of]wayY means the strip of land over which railroad tracks run, or within which a public street or highway has been constructed, regardless of whether the strip of land is owned by the railroad or the entity that maintains the public street or highway; and corridors created by dedication, by the granting of an easement and by the acquisition of fee title.

c53d XRisk assessmentY means a site-specific characterization of the current or potential threats that may be posed to public health, safety, or welfare or the environment by contamination migrating to or in groundwater or surface water, discharging to the air, leaching through or remaining in soil, bioaccumulating in the food chain, or other exposure pathways.

c54d XSedimentY means particles in surface waters or wetlands that are derived from the erosion of rock, minerals, soils and biological materials, as well as chemical precipitation from the water column. Sediment particles are transported by, suspended in or deposited by water.

c55d XSensitive environmentY means an area of exceptional environmental value, where a discharge could pose a greater threat than a discharge to other areas, including but not limited to: wetlands; habitat used by state or federally designated endangered or threatened species; national or state fish and wildlife refuges and fish and wildlife management areas; state and federal designated wild and scenic rivers, designated state riverways and state designated scenic urban waterways; riparian areas; rookeries; cold water communities as defined in s. NR 102.04 c3d cbd, Lakes Superior and Michigan and the Mississippi river, environmentally sensitive areas and environmental corridors identified in area-wide water quality management plans, special area management plans, special wetland inventory studies, advanced delineation and identification studies and areas designated by the U.S. EPA under section 404 ccd 33 USC 1344 ccd; calcareous fens; state forests, parks, trails and recreational areas; state and federal designated wilderness areas; designated or dedicated state natural areas established under ss. 23.27 to 23.29, Stats.; wild rice waters as listed in s. NR 19.09; and any other waters identified as outstanding or exceptional resource waters in ch. NR 102.

c55md XSensitive receptorY means a receptor that is affected by slight differences or changes in environmental conditions.

c56d XSiteY means:

cad Any waste site as defined in s. 292.01 c21d, Stats.; or

cbd Any area where a hazardous substance has been discharged.

Note: Section 292.01 c21d, Stats., defines Xwaste siteY to mean Xany site, other than an approved facility, an approved mining facility or a nonapproved facility, where waste is disposed of regardless of when disposal occurred or where a hazardous substance is discharged before May 21, 1978.Y

c57d XSite investigationY means an investigation undertaken in conformance with ch. NR 716.

c58d XSoilY means unsaturated organic material, derived from vegetation and unsaturated, loose, incoherent rock material, of any origin, that rests on bedrock other than foundry sand, debris and any industrial waste.

c59d XSolid wasteY has the meaning specified in s. 289.01 c33d, Stats.

c59md XSource propertyY means the property on which the

hazardous substance discharge which is under investigation or cleanup, originally occurred.

c60d XSubmittalY means any document, report, plan, set of specifications, engineering design, or scientific evaluation of site data that is prepared to satisfy the requirements of chs. NR 700 to 754.

c60md XSub-slabY means beneath the lowermost building foundation slab.

c61d XSurface waterY has the meaning specified in s. NR 103.02 c3d.

Note: XSurface waterY means Xall natural and artificial, named and unnamed lakes and all naturally flowing streams within the boundaries of the state, but not including cooling lakes, farm ponds and facilities constructed for the treatment of wastewaters.Y

c62d XSuperfundY means the federal environmental cleanup fund and program created by CERCLA.

c62md XSustainable remedial actionY means achieving protection of human health, safety, and the environment, while incorporating and balancing certain practices, processes, and technologies throughout all phases of the remedial action to deliberately generate a net positive impact on the environment, economy, and society.

c63d XTreatmentY means any method, technique or process, including thermal destruction, which changes the physical, chemical or biological character or composition of a hazardous substance or environmental pollution so as to render the contamination less hazardous.

c64d XTreatability studyY means the testing and documentation activities to evaluate the effectiveness of an interim or remedial action prior to full scale design and implementation. Treatability study includes, but is not limited to, bench scale studies and pilot scale studies.

Note: Treatability studies provide additional data for the detailed analysis of treatment alternatives and the engineering design of remedial alternatives under ch. NR 724.

c64gd XTSCAY means the toxic substance control act, 15 USC 2601 to 2692.

c64rd XUnconsolidated materialY means soil, sediment or other granular material, such as fill, not including debris.

Note: Section NR 700.03 c58d defines XsoilY as Xunsaturated organic material, derived from vegetation and unsaturated, loose, incoherent rock material, of any origin, that rests on bedrock other than foundry sand, debris and any industrial waste.Y Section NR 700.03 c54d defines XsedimentY as Xparticles in surface waters or wetlands that are derived from the erosion of rock, minerals, soils and biological materials, as well as chemical precipitation from the water column. Sediment particles are transported by, suspended in or deposited by water.Y Section NR 700.03 c10d defines XdebrisY as Xmaterial resulting from the construction, demolition or razing of buildings, roads and other structures and materials that have been discarded at a site or facility.Y

c65d XU.S. EPAY or XEPAY means the United States environmental protection agency.

c66d XUnderground storage tankY or XUSTY means any one or a combination of tanks, including connected pipes, that is used to contain an accumulation of hazardous substances, and the volume of which, including the volume of connected underground pipes, is 10 percent or more beneath the surface of the ground. The term does not include any of the following or pipes connected to any of the following:

cad Septic tanks.

cbd Pipeline facilities, including gathering lines, regulated under:

1. The Natural Gas Pipeline Safety Act of 1968 c49 USC App. 1671, et seq.d.

2. The Hazardous Liquid Pipeline Safety Act of 1979 c49 USC App. 2001, et seq.d.

3. State laws comparable to the provisions of the law referred to in subd. 1. or 2. for intrastate pipeline facilities.

ccd Surface impoundments, pits, ponds or lagoons.

cdd Storm water or waste water collection systems.

ced Flow-through process tanks.

cf_d Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.

cgd Storage tanks situated in an underground area, such as, but not limited to, a basement, cellar, mineworking, drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor.

Note: This definition of Xunderground storage tank_Y is based on the definition found in s. [ATCP 93.050 c122d](#).

c66md XUtility corridor_Y means any utility line that runs underground and any backfilled trench that was constructed to install a water main or lateral, a sewer main or lateral or other utility line.

c66pd XVapor action level_Y means the concentration of vapors from volatile compounds is at or above the 1-in-100,000 c1x10⁻⁵_d excess lifetime cancer risk or is at or above a hazard index of 1 for non-carcinogens.

Note: Generic tables of risk based concentrations for air in residential and industrial land use scenarios can be found at: <https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables>.

c66sd XVapor mitigation system_Y means a system that prevents or reduces the migration of contaminant vapors into a building and does not have the primary purpose of remediating vapor contaminant sources.

c66wd XVapor risk screening level_Y means the concentration of vapors in samples collected outside a building to estimate indoor vapor concentrations. The vapor risk screening level is equal to the vapor action level multiplied [divided] by an appropriate attenuation factor.

Note: The correct word is shown in brackets. The scientific process for determining a vapor risk screening level is to divide, not multiply, the vapor action level by an appropriate attenuation factor. This error will be corrected in future rulemaking.

Note: Vapor risk screening levels are applied to sub-slab, soil gas, and groundwater samples.

c66yd XVapors_Y mean chemicals that are sufficiently volatile and toxic to pose an inhalation risk to human health via vapor intrusion from a soil or groundwater source.

c67d XWaters of the state_Y has the meaning specified in s. [281.01 c18d](#), Stats.

Note: Section [281.01 c18d](#), Stats., defines Xwaters of the state_Y to include Xthose portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within the state or its jurisdiction._Y

c68d XWetlands_Y has the meaning specified in s. [23.32](#), Stats.

Note: Section [23.32](#), Stats., defines Xwetland_Y to mean Xthose areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation, and which have soils indicative of wet conditions._Y

c69d XWork plan_Y means a plan which outlines the intended scope of a response action, or any phase of a response action, including but not limited to intended methods, procedures and techniques to be used during the response action.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94; cr. c42md, Register, March, 1995, No. 471, eff. 4-1-95; am. c49d, Register, April, 1995, No. 472, eff. 5-1-95; am. cintro.d, Register, October, 1995, No. 478, eff. 11-1-95; am. cintro.d, c60d, Register, February, 1996, No. 482, eff. 3-1-96; cr. c38md and c45md, Register, October, 1996, No. 490, eff. 11-1-96; emerg. cr. c66md, eff. 5-18-00; cr. c66md, Register, January, 2001, No. 541, eff. 2-1-01; CR 01-129: cr. c28md, Register July 2002 No. 559, eff. 8-1-02; CR 12-023: am. cintro.d, renum. c1d to c1md, cr. c1ed, c1sd, am. c2d cad, cr. c3md, c4md, am. c6d, cr. c6md, c11md, am. c17d, c27d, cr. c30gd, c30rd, c33md, c34md, am. c36d, cr. c39md, am. c43d, cr. c43gd, c43rd, c45ed, am. c45md, cr. c46md, am. c48d, cr. c49gd, c49rd, renum. c51d to cintro.d and am., cr. c51d cad to ccd, c52md, c55md, c59md, am. c60d, cr. c60md, c62md, c64gd, c64rd, c66pd, c66sd, c66wd, c66yd Register October 2013 No. 694, eff. 11-1-13; CR 13-057: am. c21d Register July 2015 No. 715, eff. 8-1-15; correction in c17d made under s. [13.92 c4d cbd 7](#), Stats., Register February 2017 No. 734.

NR 700.05 Confidentiality of information. c1d Except as provided under sub. **c2d**, any record, report or other information furnished to, or obtained by, the department in the administration of chs. [NR 700 to 754](#) is a public record subject to the provisions of ss. [19.21](#), [19.31](#) to [19.39](#), Stats., and s. [NR 2.195](#).

c2d If confidential status is sought for any record, report or other information furnished to or obtained by the department under chs. [NR 700 to 754](#), the standards and procedures in s. [NR 2.19](#) are applicable to all sites and facilities, and the standards and procedures in s. [289.09 c2d](#), Stats., are applicable to the owners and operators of solid waste facilities.

Note: Under s. [NR 2.19](#), the department may grant confidential status if: c1d the standards for granting confidential status found in s. [289.09](#) or [291.15](#), Stats., are met; c2d confidential treatment is in the public interest using the balancing test in *State ex rel. Youmanns v. Owens*, [28 Wis. 2d 672](#) c1965d; or c3d a specific statutory or common law right to confidential treatment is applicable.

c3d Records, reports and other information for which the department has granted confidential status may be:

cad Used by the department in compiling or publishing analyses or summaries relating to the general condition of the environment if the analyses or summaries do not identify a specific person or responsible party and the analyses or summaries do not reveal records or other information granted confidential status;

cbd Released by the department to the U.S. EPA or its authorized representative, if the U.S. EPA or its authorized representative agrees to protect the confidentiality of the records, reports or other information;

ccd Released for general distribution if the person who provided the information to the department expressly agrees to the release; and

cdd Released on a limited basis if the department is directed to take this action by a judge or administrative law judge under an order which protects the confidentiality of the record, report or other information.

Note: Sections [292.11 c8d](#), [292.31 c1d cdd](#) and [c3d ced](#), and [292.41 c5d](#), Stats., provide the department with authority to gain access to property for the purpose of conducting response actions, and access to records relating to abandoned containers, discharged hazardous substances and solid waste disposed of at a site or facility.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94; am. c1d, c2d, Register, February, 1996, No. 482, eff. 3-1-96; CR 12-023: am. c1d, c2d Register October 2013 No. 694, eff. 11-1-13.

NR 700.07 Incorporation by reference. The material listed in this section is incorporated by reference at the paragraph noted: XSW-846, Test Methods for Evaluating Solid Waste_Y, by the U.S. Environmental Protection Agency, Office of Solid Waste, loose-leaf manual, XThe Third Edition of SW 846, as amended by Final Updates I, II, IIA, IIB, III, IIIA, IIIB and IV_Y, referenced in s. [NR 716.13 c12d](#).

Note: These materials are available for inspection in the offices of the department of natural resources, 101 S. Webster Street, Madison, Wisconsin, or may be accessed at the following web site: <https://www.epa.gov/hw-sw846> or may be purchased for personal use from:

National Technical Information Service
U.S. Department of Commerce
Springfield, VA 22161

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94; CR 12-023: am. Register October 2013 No. 694, eff. 11-1-13.

NR 700.08 Superfund site assessment. A site or facility may be evaluated by the department to determine eligibility for the federal superfund program, under CERCLA and the NCP. The department also may conduct federal site assessment activities, in cooperation with the U.S. EPA. Assessment activities may include, but are not limited to:

c1d Identifying sites for addition to CERCLIS;

c2d Reviewing files by department staff in the form of preliminary assessments;

c3d Collecting data both on and off site by conducting field sampling;

c4d Preparing or reviewing federally prepared hazard ranking system scores, using the federal hazard ranking system; and

c5d Nominating sites or facilities to the national priorities list.

History: CR 12-023; cr. Register October 2013 No. 694, eff. 11-1-13.

NR 700.10 Identification of responsible parties.

The department may attempt to identify potentially responsible parties during any phase of response action by any of the following methods:

c1d Interviewing local officials, neighboring residents, persons involved with the operations of the site or facility, and past and present site or facility owners or operators.

c2d Reviewing operational records of the site or facility.

c3d Reviewing department records.

c4d Determining current and past ownership of the site or facility.

c5d Collecting and analyzing samples.

c6d Other appropriate means.

History: CR 12-023; cr. Register October 2013 No. 694, eff. 11-1-13.

NR 700.11 Submittals. c1d GENERAL. Unless otherwise directed by the department, responsible parties shall comply with the following:

cad Responsible parties shall submit site progress reports that summarize the completed work and additional work planned to adequately complete the response action at the site or facility to the department at 6 month intervals until case closure is granted by the department. The first site progress report shall be submitted to the department no later than 6 months after the responsible party notifies the department of the discharge in accordance with s. NR 706.05. Progress reports shall be provided on a reporting form supplied by the department. The department may require progress reports be submitted at a different frequency than semi-annually.

Note: For guidance on progress reporting, see RR-082, Guidance: NR 700 Semi-Annual Site Progress Report, Wis. Admin Code NR 700.11 c1d cad. The guidance may be found by visiting dnr.wisconsin.gov and searching XRR-082Y in the search bar.

cbmd Unless otherwise directed by the department, responsible parties shall submit a site investigation work plan meeting the requirements of s. NR 716.09 to the department within 60 days of receiving notification that a site investigation is required.

ccmd Responsible parties shall submit a site investigation report meeting the requirements of s. NR 716.15 to the department within 60 days after completion of the field investigation and receipt of the laboratory data.

cdmd Responsible parties shall submit a remedial action options report meeting the requirements of s. NR 722.13 to the department within 60 days after submittal of the site investigation report.

cemd The department shall provide written acknowledgement of receipt of the reports listed in par. cbmd to cdmd within 30 days.

c3d MORE EXTENSIVE REVIEW. The department may perform more extensive review where an application is submitted to the department by a person seeking a liability exemption under s. 292.15, Stats., or where a person is participating in the dry cleaner environmental response program under s. 292.65, Stats.

Note: Section 292.15, Stats., applies to persons who conduct remediation of contaminated property to obtain an exemption from liability.

c3gd NUMBER OF SUBMITTALS. One paper copy and one electronic copy of each plan or report shall be submitted to the

department, unless otherwise directed by the department. The electronic copy shall be submitted on optical disk media and may not be submitted as electronic mail attachments unless specifically approved in advance by the department. Electronic copy files shall have a minimum resolution of 300 dots per inch, and may not be locked or password protected. The department may request that the electronic copy of sampling results be submitted in a format that can be managed in software. An electronic copy of certain types of voluminous attachments or appendices may be substituted for the paper copy, if specifically approved in advance by the department. All documents shall be digital format versions rather than scanned versions except documents that are only available as scanned versions. Deeds and legal descriptions may be scanned versions. All information submitted shall be legible.

Note: Guidance for GIS Registry submittals outlines how electronic copies should be submitted in the Adobe Portable Document Format cPDFd on optical disk media. This guidance can be accessed at <https://widnr.widen.net/s{gh9kj7-fh}{rr690}>.

Note: The department strongly recommends the use of 2-sided copies for the paper copy of the report, and the use of accordion folders for larger reports instead of 3-ring binders, to help address file space issues.

Note: An example of a voluminous attachment is a laboratory quality assurance and control report.

Note: Examples of formats that can be managed in software are spreadsheets, plain text tabular files, hypertext markup language files cHTMLd and extensible markup language files cXMLd.

Note: The department intends to implement an electronic document management system in the future that may require the submittal of all plans or reports in electronic format that can be managed in software.

c3rd TECHNICAL ASSISTANCE. When requesting technical assistance or liability clarification from the department, the request shall be submitted on a form supplied by the department.

Note: The Technical Assistance and Environmental Liability Clarification Request form may be accessed at <http://dnr.wi.gov/topic/Brownfields/Pubs.html>. Other forms are used for the following requests: off-site liability exemption or liability clarification requests, lender liability exemption requests, exemption to develop on a historic fill site, closure requests, or operation and maintenance requests. These forms may be accessed at <http://dnr.wi.gov/topic/Brownfields/Pubs.html>.

History: Cr. Register, April, 1995, No. 472, eff. 5-1-95; am. c3d cbd, Register, February, 1996, No. 482, eff. 3-1-96; emerg. am. c1d cbd and c2d cbd, cr. c2d ced, eff. 5-18-00; am. c1d cbd and c2d cbd, cr. c2d ced and cfd, Register, January, 2001, No. 541, eff. 2-1-01; correction in c2d ced was made under s. 13.93 c2md cbd 7., Stats., Register July 2002 No. 559; CR 12-023; r. and recr. c1d ctitled, cintro.d, am. c1d cad, r. c1d cbd to cfd, cr. c1d cbmd to cemd, r. c2d, am. c3d ctitled, renum. c3d cintro.d to c3d, r. c3d cad to cdd, cr. c3gd, c3rd, r. c4d Register October 2013 No. 694, eff. 11-1-13.

NR 700.13 Sample preservation and analysis. c1d GENERAL REQUIREMENTS. All sampling, preservation, extraction, and analytical methods used for compliance with chs. NR 700 to 754 shall be according to the requirements in s. NR 716.13.

c1md USE OF GASOLINE RANGE ORGANICS{DIESEL RANGE ORGANICS ANALYSIS. Soil or groundwater analyses for gasoline range organics or diesel range organics conducted for screening purposes shall be completed in accordance with the XModified GRO, Method for Determining Gasoline Range OrganicsY and the XModified DRO, Method for Determining Diesel Range OrganicsY. For purposes of this section, the term Xscreening purposesY means sampling conducted during site investigations, environmental assessments or other activities in compliance with chs. NR 700 to NR 754 for purposes of determining whether a discharge has occurred or to estimate the degree and extent of contamination.

Note: The XModified GRO, Method for Determining Gasoline Range Organics: cWI-PUBL-SW-140d and XModified Diesel Range OrganicsY cWI-PUBL-SW-141d are available online at the Wisconsin department of natural resources laboratory accreditation program website.

Note: The XModified GRO, Method for Determining Gasoline Range OrganicsY cWI-PUBL-SW-141d and XModified DRO, Method for Determining Diesel Range OrganicsY cWI-PUBL-SW-140d are available from the Department of Natural Resources, Emergency and Remedial Response Section, 101 S. Webster St., Madison, WI 53707.

History: Cr. Register, February, 1996, No. 482, eff. 3-1-96; correction in c1d made under s. 13.92 c4d cbd 7., Stats., Register February 2012 No. 674; CR 12-023;

am. c1d, cr. c1md, r. c2d, c3d [Register October 2013 No. 694](#), eff. 11-1-13; correction in c1md made under s. [13.92 c4d cbd 7.](#), Stats., [Register November 2013 No. 695](#).