

Concise Summary of Proposed Changes to Title 126

- Repeal all “reserved” chapters.
- Move and streamline Chapter 10 and Appendix I to Title 132, Chapter 17.
- Rename Title 126 from “Rules and Regulations Pertaining to Management of Waste” to “Releases of Oil or Hazardous Substances”.
- Move Chapter 18 “Releases of Oil or Hazardous Substances” to Chapter 1 and make clarifying revisions as described below.

Chapter 1, 001 – Definitions

- 001.01 – “cleanup” revised to a substantially similar definition as used in Title 118 – “Groundwater Quality Standards and Use Classification”.
- 001.03 – “hazardous substance” revised to update an obsolete reference from already repealed regulations in Title 126 to Title 128 – Nebraska Hazardous Waste Regulations; also revised to clarify that meeting any 1 of 3 listed criteria qualifies a substance as hazardous.
- 001.04 – added language that defines “immediate notification” to mean within 15 minutes of release with allowances for as long as 24 hours provided specific circumstances prevented notification within 15 minutes.
- 001.05 – “oil” revised for consistency with the definition for “oil” used by the U.S. EPA Spill Prevention Control and Countermeasure (SPCC) Program in 40 CFR § 112.2.
- 001.07 – added words “but not limited to” preceding the list of example types of remediation projects in the definition of “Remedial Actions”.
- 001.08 – added words “in possession” to define actions, as they pertaining to releases, that the Department would consider for the purposes of naming a “Responsible Person”.

Chapter 1, 003 – Release Notification Requirements

- 003.01A-003.01E – “suspected release” added to all subsections for consistency with the major section, 003.01, in which “suspected release” is already established as creating a duty to notify when an actual or suspected release of oil or a hazardous substance has occurred.
- 003.01B1(a) and 003.01D – “responsible party” is changed to “responsible person” for consistency with the term used in Section 001 – Definitions and throughout the chapter.
- 003.05 – added “local” to the list of government agencies that, in addition to DWEE, may require reporting.

Miscellaneous Sections of Chapter 1

- 002.04K (as numbered in strikethrough text) – removed a requirement that a release notification report submitted up to 15 days after the release include “when appropriate, advice regarding medical attention necessary for exposed individuals”, which by that point is untimely, outside of agency jurisdiction, and outside the expertise of the facilities and industries regulated by Title 126.
- 004.01 – language added to clarify that a responsible person has a duty to take all necessary steps to stop and contain the release as soon as practicable, not just within twenty-four (24) hours.
- 008 (as numbered in strikethrough text) – “Liabilities” removed which restates enforcement-related provisions from statute that do not need to be codified again in regulation.

- 008.01 – added “investigations” to actions the Department Director may initiate in the event of an actual or suspected oil or hazardous substance release when the responsible person is unwilling to respond or unknown.