

WAC 173-340-310 Initial investigation. (1) Purpose. An initial investigation is an inspection of a suspected site by the department and documentation of conditions observed during that site inspection. The purpose of the initial investigation is to determine whether a release or threatened release of a hazardous substance may have occurred that warrants further action under this chapter.

(2) Applicability and timing. Whenever the department receives information and has a reasonable basis to believe that there may be a release or a threatened release of a hazardous substance that may pose a threat to human health or the environment, the department shall conduct an initial investigation within ninety days.

(3) Exemptions. The department shall not be required to conduct an initial investigation when:

(a) The circumstances associated with the release or threatened release are known to the department and have previously been or currently are being evaluated by the department or other government agency;

(b) The release is permitted; or

(c) The release is exempt from reporting under WAC 173-340-300(3).

(4) Department deferral to others. The department may rely on another government agency or a contractor to the department to conduct an initial investigation on its behalf, provided the department determines such an agency or contractor is not suspected to have contributed to the release or threatened release of a hazardous substance and that no conflict of interest exists.

(5) Department decision. Based on the information obtained about the site, the department shall within thirty days of completion of the initial investigation make one or more of the following decisions:

(a) A site hazard assessment is required;

(b) Emergency remedial action is required;

(c) Interim action is required; or

(d) The site requires no further action under this chapter at this time because either:

(i) There has been no release or threatened release of a hazardous substance; or

(ii) A release or threatened release of a hazardous substance has occurred, but in the department's judgment, does not pose a threat to human health or the environment; or

(iii) Action under another authority is appropriate.

A decision for a particular follow-up action does not preclude the department from requiring some other action in the future based on reevaluation of the site or additional information.

(6) Notification.

(a) Sites requiring an emergency remedial action or interim action. If the department determines that an emergency remedial action or interim action is required, then notification of the threat to the potentially affected vicinity may be required by the department. The method and nature of the notification shall be determined on a case-by-case basis using the methods specified in WAC 173-340-600. Such notification shall be the responsibility of the site owner or operator if required in writing by the department.

(b) Sites requiring further remedial action. For sites requiring further remedial action under chapter 70.105D RCW, the department shall notify the owner, operator, and any potentially liable person known to the department of its decision. This notification shall be a letter ("Early Notice Letter") mailed to the person which includes:

- (i) The basis for the department's decision;
 - (ii) Information on the cleanup process provided for in this chapter;
 - (iii) A statement that it is the department's policy to work cooperatively with persons to accomplish prompt and effective cleanups;
 - (iv) A person or office of the department to contact regarding the contents of the letter; and
 - (v) A statement that the letter is not a determination of liability and that cooperating with the department in planning or conducting a remedial action is not an admission of guilt or liability.
- (c) Sites not requiring further remedial action. For sites requiring no further remedial action under chapter 70.105D RCW, if requested by the owner or operator, the department shall notify the owner or operator of the department's conclusion. This notification shall be in writing and may be combined with the determination of status letter in WAC 173-340-500.
- (7) Reservation of rights. Nothing in this section shall preclude the department from taking or requiring appropriate remedial action at any time.

[Statutory Authority: Chapter 70.105D RCW. WSR 01-05-024 (Order 97-09A), § 173-340-310, filed 2/12/01, effective 8/15/01; WSR 90-08-086, § 173-340-310, filed 4/3/90, effective 5/4/90.]