



CR 83-219

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

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MADISON, WISCONSIN 53707

RECEIVED

AUG 1 1984

C. D. Besadny
Revisor of Statutes
Bureau

STATE OF WISCONSIN)
DEPARTMENT OF NATURAL RESOURCES) ss

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carroll D. Besadny, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. WQ-58-83 was duly approved and adopted by this Department on April 25, 1984. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at General Executive Facility #2 in the City of Madison, this 24th day of July, 1984.

Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)

3443I

10-1-84

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING AND RECREATING, AND CREATING RULES

.....
IN THE MATTER of repealing and recreating ch. NR 205; and creating .
s. NR 102.03(4)(h) of the Wisconsin Administrative Code pertaining .
to the general provisions of the Wisconsin Pollutant Discharge .
Elimination System and water quality standards for pH .
.....

WQ-58-83

Analysis Prepared by the Department of Natural Resources

The effect of the repeal and recreation of ch. NR 205, Wis. Adm. Code, will be to clarify and update the general provisions of the Wisconsin Pollutant Discharge Elimination System (WPDES) program to reflect recent changes made to ch. 147, Stats., to codify the general conditions which are imposed in wastewater discharge permits and to provide the department clear authority to allow pH excursions of categorical effluent limits for pH. These changes include deletion of the Legal Authority Section originally part of ch. NR 205 which merely repeats sections of ch. 147, Stats., expansion of the definitions and abbreviations sections, update of the rainfall event data, addition of a section on categorical pH limitations which authorizes variances to pH limits under certain conditions, addition of a section on the WPDES permit general conditions included in department issued WPDES permits to industries and municipalities and addition of a section discussing general WPDES permits which the department issues to categories of discharges.

The reason for this rule is to provide the Department with a better regulatory mechanism for implementing the WPDES permit program and to conform with state and federal regulations applicable to this permit program.

The effect of the amendments to s. NR 102.03, Wis. Adm. Code, will be to establish water quality standards for pH which must be met in all locations in all surface waters of the state. These standards would set absolute maximum and minimum pH levels at all points in a surface water body.

The reason for the amendment is to ensure the protection of aquatic communities at all points in a water body particularly where a municipality or industry might discharge to a surface water.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss.

144.025, 147.015, 147.023, 147.035 and 227.014(2)(a), Stats., the State of Wisconsin Natural Resources Board hereby repeals and recreates, and creates rules interpreting ss. 144.025, 147.015, 147.023 and 147.035, Stats., as follows:

SECTION 1. NR 102.03(4)(h) is created to read:

NR 102.03(4)(h) Restricting the pH to values greater than 4.0 s.u. and to values less than 11.0 s.u. at any point in the mixing zone for the protection of indigenous fish and fish food organisms.

SECTION 2. Chapter NR 205 is repealed and recreated to read:

Chapter NR 205

GENERAL PROVISIONS

WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM

NR 205.01 PURPOSE. The purpose of this chapter is to set forth the definitions applicable to and abbreviations used in chs. NR 200 to 298 to avoid repetition in those chapters. This chapter also sets forth permit general conditions for all WPDES permits, effluent limitations applicable to non-POTW's where pH is continuously monitored and procedures to be used for issuing general WPDES permits.

NR 205.02 APPLICABILITY. The provisions of this chapter are applicable to all point source discharges of pollutants.

NR 205.03 DEFINITIONS. The following definitions are applicable to terms used in chs. NR 200 to 298 except as they may be superseded by a more specific definition in a particular chapter or section or in any particular issued permit.

(1) "Bioaccumulation" means the uptake and retention of one or more substances in living tissue either by direct uptake or through uptake in the food chain or both.

(2) "Bioassay" means the procedure in which the response of captive aquatic organisms are used to detect or measure the presence or effect of one or more substances, wastes or environmental factors, alone or in combination.

(3) "Biological monitoring" as defined in ch. 147, Stats., means the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical and biological characteristic of the effluent and at appropriate frequencies and locations.

(4) "Blowdown" means the minimum discharge of recirculating water necessary to prevent the buildup of materials in the water above the limits of best engineering practice.

(5) "Bypass" means the diversion of waste streams from any portion of the treatment works.

(6) "Chronic toxicity" means the long term effects on aquatic or terrestrial organisms from exposure to a toxic pollutant as determined by whole or partial life-cycle tests.

(7) "Commercial domestic establishment" means any establishment which has the capability to collect, treat or dispose of domestic wastes including but not limited to restaurants, country clubs, mobile home parks, motels and hotels.

(8) "Construction" as defined in ch. 147, Stats., means any placement, assembly or installation of facilities or equipment, including contractual obligations to purchase such facilities or equipment, at the premises where such equipment will be used, including preparation work at such premises.

(9) "Contaminated storm water" means a point source discharge of storm water which the department has identified as a significant contributor of pollution.

(10) "Cooling water" means water which has been used primarily for cooling but which may be contaminated with process waste or airborne material. Examples are the discharge from barometric condensers or the blowdown from cooling towers.

(11) "Department" means the department of natural resources.

(12) "Discharge" as defined in ch. 147, Stats., when used without qualification includes a discharge of any pollutant.

(13) "Discharge of pollutant" as defined in ch. 147, Stats., means any addition of any pollutant to the waters of this state from any point source.

(14) "Domestic wastewater" means the type of wastewater normally discharged from plumbing facilities in private dwellings or commercial domestic establishments and includes, but is not limited to, sanitary, bath, laundry, dishwashing, garbage disposal and cleaning wastewaters.

(15) "Effluent limitation" as defined in ch. 147, Stats., means any restriction established by the department, including schedules of compliance, on quantities, rate, and concentrations of chemical, physical, biological and other constituents which are discharged from point sources into waters of the state.

(16) "General permit" means a permit for the discharge of pollutants issued by the department under s. 147.023, Stats.

(17) "Groundwater" means the portion of subsurface water which is within the zone of saturation and includes but is not limited to perched water tables, shallow regional groundwater tables, and aquifers or zones that are seasonally, periodically or permanently saturated.

(18) "Municipality" as defined in ch. 147, Stats., means any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district or any other public entity created under law and having authority to collect, treat or dispose of sewage, industrial wastes or other wastes.

(19) "Municipal wastewater" means the mixture of domestic, process and other wastewater tributary to any given municipal sanitary sewerage or treatment system.

(20) "New source" as defined in ch. 147, Stats., means any point source the construction of which commenced after the effective date of applicable effluent limitations or standards of performance.

(21) "Noncontact cooling water" means water used for cooling which does not come into contact with any raw material, intermediate or finished product, or waste and has been used in heat exchangers, air or refrigeration compressors, or other cooling means where contamination with process waste is not normally expected.

(22) "Owner or operator" as defined in ch. 147, Stats., means any person owning or operating a point source of pollution.

(23) "Permit" as defined in ch. 147, Stats., means a permit for the discharge of pollutants issued by the department under ch. 147, Stats.

(24) "Permittee" means a municipality, industry, public agency or commercial domestic establishment which is issued a permit.

(25) "Person" as defined in ch. 147, Stats., means an individual, owner or operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

(26) "pH excursion" means an unintentional and temporary incident in which the pH value of the discharge wastewater exceeds the range set forth in the applicable effluent limitations as specified in the permit.

(27) "Point source" as defined in ch. 147, Stats., means any discernible, confined and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants may be discharged either into the waters of this state or into a publicly owned treatment works. Point source does not include diffused surface drainage or any ditch or channel which serves only to intermittently drain excess surface water from rain or melting snow and is not used as a means of conveying pollutants into waters of the state. Point source does not include uncontrolled discharges composed entirely of storm runoff when these discharges are uncontaminated by any industrial or commercial activity, unless the particular storm runoff discharge has been identified by the department as a significant contributor of pollution.

(28) "Pollutant" as defined in ch. 147, Stats., means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

(29) "Pollution" as defined in ch. 147, Stats., means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

(30) "Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product, and is likely to contain in solution or suspension various components of such raw materials or products.

(31) "Publicly owned treatment works" has the meaning specified under s. NR 211.03(8).

(32) "Schedule of compliance" as defined in ch. 147, Stats., means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation or other limitation, prohibition or standard.

(33) "Secretary" as defined in ch. 147, Stats., means the secretary of the department or the secretary's designee.

(34) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources. Severe property damage does not mean economic loss caused by delays in production.

(35) "Sewage" as defined in ch. 144, Stats., means the water carried wastes created in and to be conducted away from residences, industrial establishments, and public buildings as defined in s. 101.01(2), Stats., with such surface or groundwater as may be present.

(36) "Sludge" means the accumulated solids generated during the biological treatment, chemical treatment, coagulation or sedimentation of water or wastewater.

(37) "Standard of performance" means any restriction established on quantities, rates and concentrations of chemical, physical, biological and other constituents of wastewaters which are or may be discharged from new sources into the waters of the state.

(38) "Storm water" or "storm runoff" means water resulting from melting snow or rainfall.

(39) "Toxic pollutants" as defined in ch. 147, Stats., means those pollutants or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, injection, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the department, cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction or physical deformations, in such organisms or their offspring.

(40) "Treatment work" as defined in ch. 147, Stats., means any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature or necessary to recycle or reuse water at the most economical cost over the estimated life of the work, including intercepting sewers, outfall sewers, sewage collection systems, cooling towers and ponds, pumping, power and other equipment, and their appurtenances, extensions, improvements, remodeling, additions, and alterations thereof, elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment. Additionally, treatment work means any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems.

(41) "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(42) "Vessel" as defined in ch. 147, Stats., means any watercraft or other artificial contrivance used or capable of being used as a means of transportation on water.

(43) "Wastewater" means cooling water, contaminated storm water, noncontact cooling water, process wastewater, sewage or any combination of these.

(44) "Waters of the state" as defined in ch. 147, Stats., means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

NR 205.04 ABBREVIATIONS. The abbreviations listed below have the meanings shown unless otherwise specifically defined wherever they occur in chs. NR 200 to 298 and in public notices, fact sheets, and permits issued under the Wisconsin pollutant discharge elimination system.

- (1) "ac" means acre.
- (2) "avg" means the average for 30 days.
- (3) "BAT" means best available technology economically achievable.
- (4) "BCT" means best conventional pollutant control technology.
- (5) "BOD" or "BOD₅" means the 5 day biochemical oxygen demand.
- (6) "BPT" means best practicable technology currently available.
- (7) "btu" means british thermal unit.
- (8) "cm" means centimeter.
- (9) "COD" means chemical oxygen demand.
- (10) "cu ft" means cubic foot.
- (11) "cu m" means cubic meter.
- (12) "cu y" means cubic yard.
- (13) "DMR" means discharge monitoring report.
- (14) "DNR" means department of natural resources.
- (15) "DO" means dissolved oxygen.

- (16) "EPA" means the U.S. environmental protection agency.
- (17) "g" means gram.
- (18) "gal" means gallon.
- (19) "gpd" means gallons per day.
- (20) "ha" means hectare.
- (21) "hp" means horsepower.
- (22) "in" means inch.
- (23) "k cu m" means 1,000 cubic meters.
- (24) "kg" means kilogram.
- (25) "kkg" means 1,000 kilograms.
- (26) "kw" means kilowatt.
- (27) "kwh" means kilowatt hour.
- (28) "l" means liter.
- (29) "lb" means pound.
- (30) "m" means meter.
- (31) "max" means the maximum for any one day.
- (32) "meq" or "meq/l" means milliequivalents or milliequivalents per liter.
- (33) "mg" means milligram.
- (34) "Mgd" or "mgd" means millions of gallons per day.
- (35) "ml" means milliliter.
- (36) "mm" means millimeter.
- (37) "mpn" or "MPN" means most probable number.
- (38) "Mw" means megawatt.
- (39) "Mwh" means megawatt hour.
- (40) "NPDES" means the national pollutant discharge elimination system.

(41) "pH" means the logarithm of the reciprocal of the hydrogen ion concentration or the negative logarithm of the hydrogen ion concentration.

(42) "PCB" means polychlorinated biphenyl.

(43) "POTW" means publicly owned treatment work.

(44) "sq ft" means square foot.

(45) "sq m" means square meter.

(46) "SS" or "TSS" means total suspended (nonfiltrable) solids.

(47) "TDS" means total dissolved (filtrable) solids.

(48) "TOC" means total organic carbon.

(49) "TTO" means total toxic organics.

(50) "tpd" means tons per day.

(51) "ug" means micrograms.

(52) "WPDES" means the Wisconsin pollutant discharge elimination system.

NR 205.05 RAINFALL EVENTS. The design rainfall amount and probable intensity of 10-year and 25-year, 24-hour rainfall events for locations in Wisconsin shall be determined from the data in table 1, or for a particular location such determination may be made on the basis of more recent rainfall probability data verified by a government agency and approved by the department for this purpose.

Table I
 Probable 24-Hour Rainfall Events,
 In Inches of rain, for counties in Wisconsin

	<u>10-year</u>	<u>25-year</u>		<u>10-year</u>	<u>25-year</u>
Adams	4.1	4.7	Marathon	4.0	4.5
Ashland	3.9	4.3	Marinette	3.6	4.1
Barron	4.1	4.6	Marquette	4.1	4.6
Bayfield	3.9	4.4	Menominee	3.7	4.3
Brown	3.7	4.3	Milwaukee	3.9	4.5
Buffalo	4.3	4.8	Monroe	4.2	4.8
Burnett	4.0	4.6	Oconto	3.7	4.2
Calumet	3.8	4.4	Oneida	3.8	4.3
Chippewa	4.1	4.7	Outagamie	3.8	4.4
Clark	4.1	4.7	Ozaukee	3.9	4.4
Columbia	4.1	4.7	Pepin	4.3	4.8
Crawford	4.3	5.0	Pierce	4.2	4.8
Dane	4.2	4.8	Polk	4.1	4.7
Dodge	4.0	4.6	Portage	4.0	4.5
Door	3.6	4.1	Price	4.0	4.4
Douglas	3.9	4.4	Racine	4.0	4.6
Dunn	4.2	4.7	Richland	4.3	4.9
Eau Claire	4.2	4.7	Rock	4.1	4.7
Florence	3.6	4.1	Rusk	4.1	4.6
Fond du Lac	3.9	4.5	St. Croix	4.2	4.7
Forest	3.7	4.2	Sauk	4.2	4.8
Grant	4.3	5.0	Sawyer	4.0	4.5
Green	4.2	4.8	Shawano	3.8	4.4
Green Lake	4.0	4.6	Sheboygan	3.8	4.4
Iowa	4.3	4.9	Taylor	4.1	4.6
Iron	3.8	4.3	Trempealeau	4.3	4.8
Jackson	4.2	4.8	Vernon	4.3	4.9
Jefferson	4.0	4.6	Vilas	3.8	4.3
Juneau	4.1	4.7	Walworth	4.1	4.6
Kenosha	4.0	4.6	Washburn	4.0	4.5
Kewaunee	3.7	4.2	Washington	3.9	4.5
LaCrosse	4.3	4.9	Waukesha	4.0	4.6
Lafayette	4.3	4.9	Waupaca	3.9	4.5
Langlade	3.8	4.3	Waushara	4.0	4.6
Lincoln	3.9	4.4	Winnebago	3.9	4.5
Manitowoc	3.8	4.3	Wood	4.1	4.6

Note: The data of table I were obtained by extrapolation from maps published by the National Weather Service in Technical Paper No. 40, "Rainfall Frequency Atlas of the United States".

NR 205.06 EFFLUENT LIMITATIONS APPLICABLE WHERE pH IS MONITORED CONTINUOUSLY. When an Industrial point source discharger continuously monitors the pH of wastewater in accordance with the requirements of a WPDES permit and the pH limits in the permit are established as part of the effluent limitations applicable to the category of dischargers to which the Industrial point source belongs, the permittee shall maintain the pH of such wastewater within the range of the categorical limits, except pH excursions from the range are permitted subject to the following constraints:

(1) The total time during which the pH values are outside the range of categorical pH limits may not exceed 7 hours and 26 minutes in any calendar month.

(2) An individual excursion from the range of categorical pH limits may not exceed 60 minutes.

(3) These provisions do not apply to pH limits required in a WPDES permit which are established under s. NR 102.03(4)(h).

NR 205.07 GENERAL CONDITIONS. (1) The following conditions shall be included in all WPDES permits issued by the department. Conditions applicable specifically to POTW permits and non-POTW permits are contained in subs. (2) and (3), respectively.

(a) Duty to comply. The permittee shall comply with all conditions of the permit. Any permit noncompliance is a violation of the permit and is grounds for enforcement action, permit revocation or modification, or denial of a permit reissuance application.

(b) Permit actions. As provided in s. 147.03, Stats., after notice and opportunity for a hearing the permit may be modified or revoked and reissued for cause. If the permittee files a request for a permit modification, revocation or reissuance, or a notification of planned changes or anticipated noncompliance, this action by itself does not relieve the permittee of any permit condition.

(c) Property rights. The permit does not convey any property rights of any sort, or any exclusive privilege. The permit does not authorize any injury or damage to private property or

any invasion of personal rights, or any infringement of federal, state or local laws or regulations.

(d) Inspection and entry. The permittee shall allow an authorized representative of the department, upon the presentation of credentials, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records are required under the conditions of the permit;

2. Have access to and copy, at reasonable times, any records that are required under the conditions of the permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under the permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance, any substances or parameters at any location.

(e) Recording of results. For each effluent measurement or sample taken, the permittee shall record the following information.

1. The date, exact place, method and time of sampling or measurements;

2. The individual who performed the sampling or measurements;

3. The date the analysis was performed;

4. The individual who performed the analysis;

5. The analytical techniques or methods used; and

6. The results of the analysis.

(f) Records retention. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application for the permit for a period of at least 3 years from the date of the sample, measurement, report or application. The department may request that this period be extended by issuing a public notice of its intent to modify the permit to extend this period.

(g) Signatory requirement. All applications, reports or information submitted to the department shall be signed for a corporation by a responsible corporate officer including a president, secretary, treasurer, vice president or manager; and for a municipality by a ranking elected official; or other person authorized by one of the above and who has responsibility for the overall operation of the facility or activity regulated by the permit. The representative shall certify that the information was gathered and prepared under his or her supervision and based on inquiry of the people directly under his or her supervision that, to the best of his or her knowledge, the information is true, accurate and complete.

(h) Compliance schedules. Reports of compliance or noncompliance with interim and final requirements contained in any compliance schedule of the permit shall be submitted in writing within 14 days after the schedule date, except that progress reports shall be submitted in writing on or before each schedule date for each report. Any report of noncompliance shall include the cause of noncompliance, a description of remedial actions taken and an estimate of the effect of the noncompliance on the permittee's ability to meet the remaining schedule dates.

(i) Transfers. A permit is not transferable to any person except after notice to the department. In the event of a transfer of control of a permitted facility, the prospective owner or operator shall file a new permit application and shall file a stipulation of permit acceptance with the department WPDES permit section. The department may require modification or revocation and reissuance of the permit to change the name of the permittee and to reflect the requirements of ch. 147, Stats.

(j) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit. The wastewater treatment facility shall be under the direct supervision of a state certified operator as required in s. NR 108.06(2). Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training as required in ch. NR 114 and adequate

laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(k) Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any adverse impact on the waters of the state resulting from noncompliance with the permit.

(l) Duty to provide information. The permittee shall furnish the department, within a reasonable time, any information which the department may request to determine whether cause exists for modifying, revoking or reissuing the permit or to determine compliance with the permit. The permittee shall also furnish the department, upon request, copies of records required to be kept by the permittee.

(2) The following conditions may be included in a WPDES permit issued by the department to the owner or operator of a POTW.

(a) Planned changes. All permittees shall provide adequate advance notice to the department of the following changes. This written notice shall provide information on the quality and quantity of effluent introduced into the POTW, and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

1. Any new introduction of pollutants into a POTW from an indirect discharger which would be subject to s. 147.02, Stats., if it were directly discharging those pollutants; and

2. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of permit issuance.

(b) Prohibited wastes. Under no circumstances may the introduction of wastes prohibited by s. NR 211.10 be allowed into the waste treatment system. Prohibited wastes include those:

1. Which create a fire or explosion hazard in the treatment work;
2. Which will cause corrosive structural damage to the treatment work;
3. Solid or viscous substances in amounts which cause obstructions to the flow in sewers or interference with the proper operation of the treatment work;

4. Wastewaters at a flow rate or pollutant loading which are excessive over relatively short time periods so as to cause a loss of treatment efficiency; or

5. Changes in discharge volume or composition from contributing industries which overload the treatment works or cause a loss of treatment efficiency.

(c) Pretreatment. The permittee shall require any industrial user of the permitted facility to meet pretreatment standards established under s. 147.07(2), Stats., and to provide records or reports, or all information, related to compliance with pretreatment standards.

(d) Unscheduled bypassing. Any unscheduled diversion or bypass of wastewater at the treatment work or collection system is prohibited except in the following cases:

1. An inadvertent bypass resulting from equipment damage or temporary power interruption;
2. An unavoidable bypass necessary to prevent loss of life or severe property damage; or
3. A bypass of excessive storm drainage or runoff which would damage any facilities necessary for compliance with the effluent limitations and prohibitions of the permit. In the event of an unscheduled bypass, the permittee shall immediately notify the department district office by telephone within 24 hours after an occurrence. In addition, the permittee shall notify the department by letter within 5 days after each such unscheduled diversion or unscheduled bypass. The written notification shall at a minimum include reasons for such unscheduled bypass including dates, length of bypass and steps taken or planned to correct and eliminate such occurrences.

(e) Scheduled bypassing. Any construction or normal maintenance which results in a bypass of wastewater from a treatment system is prohibited unless authorized by the department in writing. If construction or maintenance conditions necessitate a temporary diversion, the permittee shall request approval from the department's district office. If the department determines that there is significant public interest in the proposed action, the department may schedule a public hearing or notice a proposal to approve the bypass. Each request shall specify the following minimum information:

1. Proposed date of bypass;
2. Estimated duration of the bypass;
3. Alternatives to bypassing; and
4. Measures to mitigate environmental harm caused by the bypass.

(f) Unscheduled sludge removal. Any disposal of grit, screenings, scum, sludges or other solids generated as a result of wastewater treatment processes shall be prohibited unless such disposal is authorized by a WPDES permit or other department license or approval.

(3) The following conditions may be included in a WPDES permit issued by the department to the owner or operator of a non-POTW.

(a) Sampling procedures. Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored discharge and shall be taken at points specified in the permit using sample types specified in the permit and the following procedures:

1. For effluent flow measurement and sample collection - ch. NR 218.
2. For groundwater sample collection and analysis - ch. NR 214.

(b) Test procedures. Monitoring shall be conducted according to test procedures listed in ch. NR 219, or any other test procedures specified in the permit.

(c) Additional monitoring. If a permittee monitors any pollutant more frequently than required by the permit, using test procedures specified in ch. NR 219, the results of that monitoring shall be recorded and reported in accordance with this chapter. Results of this additional monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

(d) Monitoring reports. The monitoring results shall be reported at the intervals specified in the permit. Monitoring results shall be summarized on forms designated by the department.

Note: The forms used for monitoring reports are DMR Forms 3200-28 and 3200-40.

(e) Noncompliance notification. 1. The permittee shall report the following types of noncompliance by a telephone call to the department's district office within 24 hours after becoming aware of the noncompliance.

- a. Any noncompliance which may endanger health or the environment.
- b. Any violation of an effluent limitation resulting from an unanticipated bypass.
- c. Any violation of an effluent limitation resulting from an upset.
- d. Any violation of a maximum daily discharge limitation for those pollutants specifically designated in the permit to be reported within 24 hours.

2. A written report describing the noncompliance reported in subd. 1 shall be submitted to the department's district office within 5 days after the permittee becoming aware of the noncompliance. The department may waive the written report on a case-by-case basis based on the oral report received within 24 hours. The written report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; the steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and if the noncompliance has not been corrected, the length of time it is expected to continue.

3. Reports of all noncompliance not required to be reported under sub. (1)(h) or subds. 1. and 2. shall be submitted with the monitoring reports required under par. (d). The reports shall contain all the information listed in subd. 2.

(f) Removed substances. Solids, sludges, filter backwash or other pollutants removed from or resulting from treatment or control of wastewaters or intake waters shall be stored and disposed of in a manner to prevent any pollutant from the materials from entering the waters of the state. Land disposal of treatment plant solids and sludges shall be at a site or operation licensed by the department under ch. NR 180 or 181, or in accordance with ch. NR 214.

(g) Spill reporting. The permittee shall notify the department in accordance with ch. NR 158, in the event that a spill or accidental release of any material or substance results in the discharge of pollutants to the waters of the state at a rate or concentration greater than

the effluent limitations established in the permit, or the spill or accidental release of the material is unregulated in the permit, unless the spill or release of pollutants has been reported to the department under sub. (3)(e).

(h) Planned changes. In accordance with ss. 147.02(4)(b) and 147.14(1), Stats., the permittee shall report to the department any facility expansion, production increase or process modifications which will result in new, different or increased discharges of pollutants. The report shall either be a new permit application or, if the new discharge will not violate the effluent limitations of the permit, a written notice of the new, different or increased discharge. The notice shall contain a description of the new activities, an estimate of the new, different or increased discharge of pollutants and a description of the effect of the new or increased discharge on existing waste treatment facilities. Following receipt of this report, the department may modify the permit to specify and limit any pollutants not previously regulated in the permit.

Note: The notification should be directed to the industrial wastewater section.

(i) Increased discharge of toxic pollutants. 1. 'Routine or frequent increase'. The permittee shall notify the department in writing as soon as it knows or has reason to believe that any activity has occurred or will occur which would result, on a routine or frequent basis, in the discharge of any toxic pollutant which is not limited in the permit, if that discharge exceeds the highest of the following levels.

- a. One hundred micrograms per liter (100 ug/l);
- b. Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- c. Five times the maximum concentration value reported for that pollutant in the permit application; or

d. A notification level greater than the level in subpar. a., b. or c., which the department has included as a special condition of the permit.

2. 'Nonroutine or infrequent increase'. The permittee shall notify the department in writing as soon as it knows or has reason to believe that any activity has occurred or will occur which would result, on a nonroutine or infrequent basis, in any discharge of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following levels.

a. Five hundred micrograms per liter (500 ug/l);

b. One milligram per liter (1 mg/l) for antimony;

c. Ten times the maximum concentration value reported for that pollutant in the permit application; or

d. A notification level greater than the level in subpar. a., b. or c., which the department has included as a special condition to the permit.

(j) Duty to halt or reduce activity. Upon failure or impairment of treatment facility operation, the permittee shall, to the extent necessary to maintain compliance with its permit, curtail production or wastewater discharges or both until the treatment facility operations are restored or an alternative method of treatment is provided.

(k) Bypass. The permittee may bypass waste treatment facilities if this is necessary for the essential maintenance of the facilities and if the bypass does not exceed permit effluent limitations. The permittee may also bypass if the bypass is due to runoff in excess of the 10 year, 24 hour rainfall event and the bypass is designated as a specific discharge point in the WPDES permit. All other bypasses of waste treatment facilities, including diversion of wastewater from land disposal systems to surface waters, are prohibited unless the following conditions are met:

1. The bypass is necessary to prevent loss of life, personal injury or severe property damage;

2. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime; and

3. The permittee submitted written notice 10 days before the date of the bypass and the department's district office wastewater supervisor had approved the bypass in writing prior to its occurrence; or

4. In the event of an unanticipated bypass, the permittee notified the department verbally within 24 hours and in writing within 5 days of each unanticipated bypass.

NR 205.08 GENERAL PERMITS. (1) The department may issue general WPDES permits applicable to designated areas of the state authorizing discharges from specified categories or classes of point sources located within those areas.

(a) Designated areas of the state may include any of the following:

1. Any county, township, city or other civil or political division.
2. Any surface water drainage basin, stream or stream segment.
3. Any waters of the state which have the same classification under the water quality standards of chs. NR 102, 103 and 104.

4. The entire state of Wisconsin, where appropriate.

(b) Categories or classes of point sources may include any of the following:

1. Facilities which perform the same or substantially similar operations and produce the same or substantially similar wastewater streams.
2. Facilities which produce the same types of wastewater streams.
3. Facilities which employ the same or substantially similar wastewater treatment operations to control specific pollutants.

(c) General permit issuance shall be subject to the public notice and hearing procedures of subs. (8) and (10).

(d) General permits shall have effective terms to a maximum of 5 years from the date of issuance.

(2) A general permit may cover more than one class or category of discharge, or more than one area of the state, provided the permit clearly identifies the conditions applicable to each included class or category, or each specific area of the state. General permits may contain effluent limitations, monitoring requirements, reporting requirements, general conditions and applicability criteria.

(3) Individual dischargers are not required to submit formal WPDES permit applications to be eligible for coverage under a general permit. On a case-by-case basis the department may by letter require a discharger to submit information regarding a wastewater discharge which is to be covered by a general permit. On a case-by-case basis the department may by letter require a discharger to submit a notice of intent to be covered by a general permit. Following receipt of a complete notice of intent the department shall issue a determination on whether a discharger is covered by a general permit.

(4) The department shall withdraw a point source from coverage by a general permit and issue an individual permit upon written request of the discharger.

(5) The department may require any point source covered by a general permit to apply for and obtain an individual permit if:

(a) The point source is a significant contributor of pollution or if the point source is more appropriately regulated by an individual permit. Any person may submit a written request that the department take action under this section;

(b) The point source is not in compliance with the terms and conditions of the general permit;

(c) A change occurs in the availability of demonstrated technology or practices for the control or abatement of pollutants from the point source or class of discharger;

(d) Effluent limitations or standards are promulgated for a point source or class of point sources covered by the general permit and are different than the conditions contained in the general permit;

(e) A water quality management plan containing requirements applicable to the point source is approved.

(6) When an individual WPDES permit is issued for discharges which would otherwise be covered by a general permit, the applicability of the general permit to such discharges is terminated on the effective date of the individual permit.

(7) An owner or operator who holds an individual WPDES permit for discharges which are eligible for coverage by a general permit may request that the department revoke the individual permit.

(8) Any general permit issued by the department may, after an opportunity for hearing, be modified, suspended or revoked, in whole or in part. Whenever the department finds there is a need to modify, suspend or revoke a general permit, a public notice shall be made allowing 30 days for public comment prior to the intended date of final action. Any public notice shall:

(a) Be published as a class 1 notice under ch. 985, Stats., in all counties where dischargers may be located.

(b) Be mailed to any person, group, agency or unit of government upon request.

(c) Contain a description of the discharge types or categories or classes of dischargers covered by the general permit.

(d) Identify the waters of the state and areas of the state to which the general permit is applicable.

(e) Contain a description of the proposed action.

(f) Identify how and where to obtain additional information, submit written comments or request a public informational hearing.

(g) Describe the procedures to be used to formulate a final determination on the proposed action.

(h) Be distributed for comment to the U.S. environmental protection agency, the U.S. army corps of engineers, and other states potentially affected by the discharges. This subsection shall only apply to general permits which authorize discharges to surface waters.

(i) Be distributed to any county and regional planning commission in any area of the state where discharges under the general permit may be authorized.

(j) Be mailed to all facilities known by the department to be covered by a general permit in the case of revocation or suspension.

(9) (a) General permits may be reissued following public notice and opportunity for hearing. The public notice procedures of sub. (8) shall apply to general permit reissuance. Whenever possible, the department shall reissue general permits prior to the expiration date of the previous general permit to prevent the possibility of dischargers being unpermitted. Even though dischargers under a general permit are not required to submit an application for reissuance, the provisions of s. 227.14(2), Stats., shall apply as though an application had been submitted by the class or category of dischargers covered by the permit.

(b) If the department intends to terminate the coverage of a general permit to a class or category of discharger upon the expiration of the general permit, the action shall be taken as a suspension or revocation under sub. (8).

(10) (a) The department shall hold public informational hearings on any proposed general permit issuance, modification, suspension, revocation or reissuance if the department determines that there is significant public interest in holding a hearing or upon the petition of 5 or more persons. Petitions shall indicate the interest of the petitioners and the reasons why a hearing is warranted. Requests for hearings under this section shall be submitted so that the requests will be received by the department during the 30-day comment period provided by the public notice of the proposed action.

(b) Public notice of any hearing held under this section shall be made in accordance with the requirements of sub. (8).

(c) Hearings shall be held at locations which are most convenient geographically to the largest number of petitioners.

(d) Procedures for the appearance at, and conduct of, hearings held under this section shall be in accordance with ss. NR 203.08 through 203.11.

(e) The department shall make a final determination on the proposal to issue, modify, suspend, revoke or reissue a general permit based upon the consideration of statements by the public, government agencies and any other pertinent information. A notice of final determination shall be prepared and circulated in accordance with s. NR 203.13.

(f) Hearings held under this section are not contested cases under s. 227.01(2), Stats.

NR 205.09 SEVERABILITY. Should any section, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on April 25, 1984.

The rules contained herein shall take effect as provided in s. 227.026(1)(Intro.), Stats.

Dated at Madison, Wisconsin

July 24, 1984

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By

Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)

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