

Chapter NR 121

AREAWIDE WATER QUALITY MANAGEMENT PLANS

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NR 121.01 Purpose. Under the authority of ss. 144.025(1) and (2), and 147.25, Stats., this chapter establishes regulations specifying policies, procedures, and requirements for Wisconsin's areawide water quality planning process. This process will result in the preparation throughout the state of areawide plans for managing the quality of waters of the state, ground and surface, public and private, including consideration of the relationship of water quality to land and water resources and uses. Under the above state statutory authority, the department of natural resources has the responsibility for the general supervision of this continuing water pollution control planning process. In areas of the state designated by the governor, the preparation of areawide water quality management plans is the responsibility of designated areawide water quality planning agencies. In the remaining areas of the state, the department will prepare areawide water quality management plans. The purpose of this planning process is to systematically evaluate alternative means of achieving state and federal water quality goals and related standards. This planning process integrates consideration of both the technical measures for water pollution abatement and the management arrangements necessary for implementing abatement measures. Public participation will be provided for throughout plan development.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-78; am. Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.02 Applicability. This chapter is applicable to areawide water quality management plans as prepared by both the state and designated areawide water quality planning agencies.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 121.03 Definitions. (1) "Areawide water quality management plan" or areawide waste treatment management plan means a plan for managing, protecting and enhancing groundwater and surface water quality which considers the interrelationship of water quality and land and water resources on an areawide basis (hydrologic, political, or other).

(2) "Areawide water quality management plans for designated areas" means areawide water quality management plans prepared by agencies designated by the governor in areas of the state similarly designated.

(3) "Areawide water quality management plans for nondesignated areas" means areawide water quality management plans prepared by the department for all areas of the state not designated by the governor.

(4) "Best management practices" as defined in s. 144.25(2)(a), Stats., means practices, techniques or measures, identified in areawide water quality management plans, which are determined to be the most effective, practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(5) "Cost-effectiveness analysis" means a systematic comparison of alternative means of meeting state water quality standards, effluent limitations or other treatment standards in order to identify the alternative which will minimize the total resources costs over the planning period. These resources costs include monetary costs and environmental as well as other non-monetary costs.

(6) "Critical water quality conditions" means those ambient water conditions upon which the most stringent water quality effluent requirements are based.

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

(8) "Designated management agency" means any agency designated in an areawide water quality management plan having responsibility for implementing specific plan recommendations. This may be done through direct activities of the designated management agency or through delegation to other agencies or units of government.

(9) "Effluent limitation" as defined in s. 147.015(4), Stats., means any restriction established by the department, including schedules of compliance, on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into the waters of this state.

(10) "Point source", as defined in s. 147.015(8), 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 shall 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 shall 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.

(11) "Priority watershed" means a watershed of manageable size, delineated in the areawide water quality management plan and selected according to the procedures specified in s. NR 120.07, Wis. Adm. Code.

(12) "Public participation process" means those activities developed for involving individual members of the public, local governmental officials, and interest groups in the areawide water quality management

planning process. These activities may include: the dissemination of information to the public including plan documents and summaries in lay terms, outreach activities to identify interested members of the public, the actual involvement of the public in the decision-making process which leads to the preparation and implementation of an areawide water quality management plan, and response to the public on how their input was used. This process normally includes both public meetings and public informational hearings.

(13) "Nonpoint source" as set forth in s. 144.25, Stats., means a land management or use activity contributing to runoff, seepage or percolation; and are sources which are not defined as a point source under s. 147.015 (8), Stats.

(14) "Residual wastes" means waste materials resulting from the treatment of wastes or wastewater.

(15) "Sewer service area" means that area presently served and anticipated to be served by a sewage collection system.

(16) "Total maximum daily load" means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still insure attainment of the applicable water quality standard. There are 4 components to the total maximum daily load: point source allocation, nonpoint source allocation, reserve capacity and margin of safety.

(17) "Waste load allocation" means the assignment of a portion of the total maximum daily load to each of the discharges to a water quality limited segment, such that the summation of these individual loadings does not exceed the total maximum daily load.

(18) "Water pollution", as defined in s. 147.015 (19), Stats., means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

(19) "Water quality standards" means standards established by the department pursuant to s. 144.025 (2) (b), Stats., of the physical, chemical or biological characteristics or both of a water which must be maintained to make it suitable for specified uses.

(20) "Water quality limited segment" means any area or portion of a stream which will not meet the established water quality standard with application of only categorical effluent limitations to all point sources.

(21) "Watershed" means a hydrologically related land unit delineated for the purpose of instituting water quality management activities. Generally, the maximum size of a watershed should not exceed 200,000 acres.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (1), (19) and (20), r. and recr. (6), r. (10), renum. (11) and (12) to be (10) and (11), renum. (13) to be (12) and am., cr. (13), Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.04 Structure of the state water quality management plan. (1) The state continuing process required under s. 147.25, Stats., consists of the development of, and regular review and revision of the state water quality management plan.

(2) The state water quality management plan consists of:

(a) Areawide water quality management plans for areas designated by the governor and prepared by agencies similarly designated.

(b) Areawide water quality management plans for nondesignated areas prepared by the department for the remainder of the state.

(c) A document describing the state's areawide water quality management planning process. This document shall describe the interrelationship among the various elements in the planning process. These elements include:

1. Areawide water quality management plans for designated and nondesignated areas of the state.

2. Topical studies which analyze water quality policies or issues of statewide concern.

3. Procedures for intergovernmental cooperation.

4. Procedures and mechanisms for plan implementation including:

a. Water quality standards and procedures for their revision.

b. Effluent limitations and waste load allocations required to meet water quality standards.

c. An inventory and priority ranking of wastewater treatment plant construction needs for the purpose of distributing state and federal grant funds.

d. Controls for the disposition of residual wastes from wastewater treatment processes.

e. Best management practices for nonpoint sources of water pollution.

5. Procedures for plan revision.

6. Procedures for public participation.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (2) (c) 1., Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.05 Content of areawide water quality management plans.

(1) Subject to sub. (2), the following elements shall be included in each areawide water quality management plan prepared or approved by the department.

(a) Planning area boundaries. The delineation in map form of the area for which the plan is being prepared.

(b) Water quality assessment. An assessment of existing and potential water quality problems within the planning area including a general assessment of both point and nonpoint sources of pollution contributing to the problems.

(c) Inventories and forecasts: 1. An inventory of municipal and industrial source of pollutants.

2. Current demographic and economic growth data.

3. Population forecasts for 20 years in 5-year increments developed in the following manner:

a. The state population forecast for the state water quality management plan shall be consistent with that generated by the Wisconsin department of administration (DOA) and with the forecast provided by the U.S. department of commerce, bureau of economic analysis (BEA).

b. Single county forecasts prepared by multi-county regional planning agencies (established in s. 66.945, Stats.) for the purpose of areawide water quality management planning shall be consistent with the range of the regional forecast generated by DOA. Single county forecasts prepared by single county planning agencies shall be expressed within the range of the county forecast generated by DOA. Single county forecasts inconsistent with the range of DOA regional forecasts and single family [county] forecasts falling outside of the range provided by DOA may be used if special approval is obtained from the natural resources board.

Revisor's Note: Due to an apparent error, "family" was substituted for "county" in Natural Resources Board Order No. WQ-55-80, which amended subpar. b.

c. The population forecasting methodology used by designated regional or county planning agencies to apportion county forecasts to minor civil divisions (MCD) and individual sewer service areas shall be consistent with standards developed by DOA. If these agencies do not prepare MCD forecasts, the department will request that DOA do so. If DOA chooses not to prepare MCD forecasts, the department will do so.

4. Existing and projected land use patterns including the delineation of sewer service areas as described in par. (g).

(d) Water quality standards. Applicable state water quality standards and any suggested revision of such water quality standards.

(e) Total maximum daily loads. For each water quality limited segment, the total allowable maximum daily load of pollutants during critical water quality conditions for each specific water quality criterion being violated or expected to be violated.

(f) Waste load allocations. For each water quality limited segment, the individual load allocation for point sources of pollutants for the 5-year period following plan preparation.

(g) Nonindustrial wastewater treatment and collection system plan:
1. The most cost-effective regional wastewater systems for all urban areas shall be identified over a 20-year planning period based upon an analysis of alternative waste treatment system configurations. Wherever possible, applicable recommendations of approved facility plans shall be used to determine the urban area's treatment needs. This analysis shall be consistent with s. NR 110.09, Wis. Adm. Code, and shall include a cost-effectiveness analysis of regional versus individual treatment plants for the outlying areas including subsurface waste disposal systems. Water quality and other environmental impacts shall be considered.

2. Sewage collection system needs shall be identified through the delineation of a sewer service area for existing and proposed treatment systems for the 20-year planning period such that:

a. The sewer service area is determined in such a fashion as to promote cost-effective and environmentally sound waste collection and treatment.

b. The sewer service areas are delineated based on a 20-year population forecast approved by the department, and municipally approved population density standards.

c. Major areas unsuitable for the installation of waste treatment systems because of physical or environmental constraints are to be excluded from the service area. Areas to be considered for exclusion from the sewer service area because of the potential for adverse impacts on the quality of the waters of the state from both point and nonpoint sources of pollution include but are not limited to wetlands, shorelands, floodways and floodplains, steep slopes, highly erodible soils and other limiting soil types, groundwater recharge areas, and other such physical constraints.

d. Ten-year service area boundaries may also be included in addition to the 20-year sewer service boundaries.

3. The plan shall include criteria for the construction of future treatment systems within the areawide planning area. These criteria shall be consistent with, but may be more specific or restrictive than those contained in s. NR 110.08 (5), Wis. Adm. Code, if warranted by regional and local considerations.

4. For nondesignated areas of the state, a detailed identification of the regional waste treatment system, including the delineation of sewer service areas will be carried out for selected urban areas within standard metropolitan statistical areas and for urban areas with a population of over 10,000.

a. The preparation of the plan will be carried out if possible by a local planning agency under contract with the department.

b. A local policy advisory committee made up of representatives of the various local units of government in the planning area shall be established, or an existing body used, to assist the department in the preparation of the plan and to act in an advisory role to the department in matters concerning the implementation of the plan.

(h) Industrial waste treatment system needs. The anticipated industrial point source waste load reductions required to attain and maintain applicable water quality standards and effluent limitations for at least a 20-year planning period.

(i) Nonpoint source control needs:

1. The best management practices needed to produce a basic level of control of nonpoint source of pollutants throughout the planning area shall be identified and evaluated. Watersheds will be identified in the plan and the general water quality problems for each assessed.

2. Priority watershed plans shall be prepared for [on] a priority basis by the department and applicable designated agencies. The contents of priority watershed plans are described in s. NR 120.08, Wis. Adm. Code.

Revisor's Note: Due to an apparent error "for" was substituted for "on" in Natural Resources Board Order No. WQ-55-80, which amended subd. 2.

(j) Residual waste control needs. An identification of the necessary controls to be established over the disposition of residual wastes.

(k) Land disposal needs. An identification of the necessary controls to be established for the disposal of pollutants on land or in a subsurface excavation site.

(1) Target abatement dates. Target abatement dates or schedules of compliance for all significant dischargers, nonpoint source control measures, residual and land disposal controls and stormwater system needs.

(m) Recommended regulatory programs needed to implement the state water quality management plan.

(n) Designated management agencies. The identification of those agencies recommended for designation to carry out the provisions of the areawide plan.

(o) Environmental, social, economic impact. An assessment of the environmental, social and economic impacts of carrying out specific significant recommendations of the plan.

(2) The department may waive inclusion of any of these elements upon a determination by the department that special conditions exist in the planning area which preclude their inclusion or that financial resources are not adequate to allow their inclusion.

History: Cr. Register, January, 1979, No. 271, eff. 2-1-79; am. (1) (intro.) (a), (c) 3.b and 4., (e), (f), (i) 2., (n) and (2); r. and recr. (1) (g), Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.06 Designation of areawide water quality planning areas and agencies. (1) As the need arises, the department shall recommend that the governor designate areawide planning areas which as a result of urban and industrial concentrations or other factors have substantial and complex water quality control problems.

(2) Within each of these planning areas the department shall recommend to the governor for designation a single agency capable of developing effective areawide water quality management plans. Each recommended planning agency shall:

(a) Be either a regional planning commission established under s. 66.945, Stats., or be a representative organization whose membership shall include elected officials of local governments or their designees, having jurisdiction in a designated areawide water quality management planning area.

(b) Demonstrate substantial local support for designation through resolutions from local units of government deemed by the department to be critical to the successful preparation and implementation of an areawide water quality management plan.

(c) Demonstrate the technical capability to complete the plan in a timely manner.

(3) The department may recommend that the governor withdraw or modify the designation of a designated agency or designated area or both when a compelling need for such change has been demonstrated. Prior to making such a recommendation to the governor, the depart-

ment shall, conduct a public participation process, including at a minimum a public hearing in the affected area.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (2) (intro.) and (a) and (3), Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.07 Procedures for approval of areawide water quality management plans and plan revisions for designated areas of the state. (1) Review and approval of areawide water quality management plans for designated areas:

(a) The department shall review and approve or disapprove each areawide water quality management plan and shall make recommendations to the governor as to the certification of all or parts of each plan.

(b) To receive departmental approval areawide water quality management plans for designated areas must have been subject to a public participation process, approved by the department including at a minimum, a public hearing.

(2) Review and approval of 5-year updates to areawide water quality management plans for designated areas:

(a) The department shall reevaluate the approval status of each areawide water quality management plan for designated areas at least every 5 years.

1. The first such reevaluation will be completed no later than December 31, 1987.

2. Continued or renewed approval shall be granted only to plans, or portions thereof, upon a determination by the department that the plan continues to meet the requirements of this chapter.

(b) Upon reevaluation of the approval status of the plans as described in par. (a), the department shall approve the plan subject to the approval procedures described in sub. (1) (a) and (b).

(3) Review and approval of revisions to areawide water quality management plans for designated areas:

(a) The department may approve on an annual basis, or where expressed procedures are established between the department and a designated planning agency, revisions which incorporate new information or amendments to an approved areawide water quality management plan.

(b) Approval of plan revisions may be subject to a public participation process.

(4) Disapproval of previously approved areawide water quality management plans or plan elements:

(a) The department may disapprove or otherwise modify any previously approved areawide water quality management plan or plan element if such action is deemed necessary to reflect state law or rules or changes therein; or where the department finds the plan or plan element conflicts with the department's responsibility to protect, maintain, and improve the quality and management of the waters of the state, ground or surface, public and private; or where the plan or plan element is found otherwise not to be in the public interest.

(b) Any disapproval or modification of a previously approved area-wide water quality management plan or plan element by the department shall include a public participation process including at minimum a public hearing.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (1) and (2), cr. (3) and (4), Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.08 Procedures for adoption and revision of areawide water quality management plans for nondesignated areas of the state. (1) Adoption of areawide water quality management plans for nondesignated areas:

(a) During development and prior to formal adoption, areawide water quality management plans for nondesignated areas or portions thereof shall be subject to a public participation process including, at a minimum public hearing.

(b) Each areawide water quality management plan for a nondesignated area, or portion thereof, shall be submitted to the governor for certification as the adopted areawide water quality management plan for that portion of the state.

(2) Review and approval of 5-year updates to areawide water quality management plans for nondesignated areas:

(a) Areawide water quality management plans for each nondesignated area shall be subject to a major review and update at least every 5 years. The first such review and update of areawide water quality management plans for all nondesignated areas will be completed no later than December 31, 1987.

(b) Five year plan updates shall be subject to the public participation process and adoption procedures as described in sub. (1)

(3) Revisions to areawide water quality management plans for nondesignated areas:

(a) The department may revise, as is necessary, areawide water quality management plans for nondesignated areas.

(b) Plan revisions by the department may be subject to a public participation process.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (1) and (2), cr. (3), Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.09 Statewide water quality advisory committee. (1) The department shall form a statewide water quality advisory committee composed of representatives of federal, state and regional organizations, agencies and units of government, public interest groups, groups with a special economic interest and private citizens.

(2) The department shall inform the committee of ongoing and proposed water quality planning and management activities and policy issues of statewide concern.

(3) The committee shall advise the department on water quality management issues of statewide concern.

(4) The statewide water quality advisory committee shall include, at a minimum, representatives of the following:

- (a) U.S. environmental protection agency
- (b) U.S. department of agriculture
- (c) U.S. geological survey
- (d) U.S. army corps of engineers
- (e) Wisconsin assembly environmental resources committee
- (f) Wisconsin senate agriculture and natural resources committee
- (g) Wisconsin department of agriculture, trade and consumer protection
- (h) Wisconsin department of transportation
- (i) Wisconsin department of administration
- (j) Wisconsin board of soil and water conservation districts
- (k) University of Wisconsin-extension
- (l) Wisconsin department of natural resources
- (m) Wisconsin department of development
- (n) Wisconsin department of health and social services
- (o) Southeastern Wisconsin regional planning commission
- (p) Dane county regional planning commission
- (q) Fox valley water quality planning agency
- (r) Rock river task force
- (s) Upper Wisconsin river task force
- (t) Lake Michigan policy advisory committee
- (u) Southwest Wisconsin policy advisory committee
- (v) Northwest Wisconsin policy advisory committee
- (w) Public interest groups
- (x) Groups with a special economic interest
- (y) Private citizens
- (z) East central Wisconsin regional planning commission
- (za) Brown county planning commission
- (zb) Wisconsin department of industry, labor and human relations
- (zc) Agricultural producer groups

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (1) and (4), Register, August, 1981, No. 308, eff. 9-1-81.

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NR 121.10 Severability. Should any section, paragraph, phrase, sentence, clause or word of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

History: Cr. Register, August, 1981, No. 308, eff. 9-1-81.