

## Chapter NR 101

## REPORTS AND FEES FOR WASTEWATER DISCHARGES

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Note: Chapter NR 101 as it existed on December 31, 1977 was repealed and a new chapter NR 101 was created effective January 1, 1978.

**NR 101.01 Purpose.** The purpose of this chapter is to establish, pursuant to s. 144.96, Stats., requirements for submission of reports and payment of wastewater fees by persons discharging industrial or municipal wastewaters or other discharges requiring a WPDES permit.

Note: This chapter does not establish any limitations on discharges of wastewaters. Persons owning or operating facilities having such discharges remain subject to any lawful limitations on such discharges imposed in accordance with federal, state or local regulatory programs. Air emissions fee and reporting requirements are contained in chs. NR 410 and 438, respectively.

**History:** Cr. Register, December, 1977, No. 264, eff. 1-1-78; correction made under s. 13.93 (2m) (b) 7, Stats., Register, October, 1985, No. 358; am. Register, May, 1993, No. 449, eff. 6-1-93; am. Register, February, 1994, No. 458, eff. 3-1-94.

**NR 101.02 Applicability.** The provisions of this chapter are applicable to persons required to submit reports to the department as set forth in s. NR 101.11. This section requires reports of discharges of industrial wastes and toxic and hazardous substances which exceed specified reporting levels.

**History:** Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. Register, May, 1993, No. 449, eff. 6-1-93.

**NR 101.03 Definitions.** The following definitions are applicable to terms used in this chapter:

(1) "Cooling water" means any water which is used primarily for cooling of raw materials, products, or equipment.

(2) "Facility" means a publicly owned treatment works, or an operating plant or establishment carrying on any manufacturing activity, trade, or business on a common site, including similar such plants under common ownership or control located on contiguous properties. Plants or establishments under common ownership or control located on separate sites shall be considered separate and individual facilities.

(3) "Land disposal system" means an absorption or seepage pond, a ridge and furrow, a spray irrigation, a spray runoff, a subsurface field absorption, a surface spreading, or other installation on a land area used for the disposal of effluent by absorption or percolation into the ground.

(4) "Limit of detection" means the lowest concentration level that can be determined to be significantly different from a blank.

(5) "Limit of quantitation" means the level above which quantitative results may be obtained with a specified degree of confidence.

(6) "Major permittee" or "minor permittee" means any WPDES permit holder thus classified by the U.S. environmental protection agency in conjunction with the department under 40 CFR 122.2.

(7) "Municipality" means, as defined in s. 144.01 (6), Stats., any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

(8) "Person" means an individual, partnership, corporation, association, municipality, state agency, or interstate agency owning or operating a facility discharging wastewater to a surface water, to a land disposal system, or to a publicly owned treatment works.

(9) "Process waste water" means any water, except cooling water, which comes into direct contact with or results from the production or use of any raw material, service item, intermediate product, finished product, byproduct, or waste product, and may contain in solution or suspension various components of such raw materials, items or products.

(10) "Publicly owned treatment works" means a sewage treatment plant owned by a municipality and the sewerage system tributary thereto.

(11) "Sanitary waste water" means waste water associated with personal hygiene, food preparation, or cleaning but does not include waste water from commercial or bulk production of goods or services such as, but not limited to, laundromats, commercial laundries, carwashes, food production, or other manufacturing activities.

(12) "Surface water" means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, impounding reservoirs, marshes, water courses, drainage systems and other surface water, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and completely retained upon the property of a facility.

(13) "Wastewater" means any process waste water, cooling water, sanitary waste water, or other wastes whose discharge requires a WPDES permit, discharged to a surface water including such discharge through a storm sewer, to a land disposal system, or to a publicly owned waste treatment works.

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(14) "WPDES permit" means a Wisconsin pollutant discharge elimination system permit issued by the department pursuant to ch. 147, Stats.

**History:** Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (3), Register, February, 1984, No. 388, eff. 3-1-84; correction made in (7) under s. 13.93 (2m) (b) 7, Stats., Register, October, 1985, No. 358; emerg. am. (1) and (2), eff. 2-5-92; am. (1), r. (12), (14) to (16), Register, May, 1993, No. 449, eff. 6-1-93; renum. (13) to NR 400.02 (59m), Register, June, 1993, No. 460, eff. 7-1-93; renum. (1), (3) to (6), (8) to (11) to be (8), (13), (12), (3), (10), (9), (1), (11) and (14) and am. (8) and (13), am. (2), cr. (4) to (6), Register, February, 1994, No. 468, eff. 3-1-94.

**NR 101.11 Required wastewater reports.** The reporting requirements of the WPDES permit, for discharges to surface or ground waters, or requirements promulgated under s. 147.07 (2), Stats., for discharges to a publicly owned treatment works, shall be used as the reporting requirements under this chapter.

**History:** Cr. Register, December, 1977, No. 264, eff. 1-1-78; emerg. am. (2) and (4), eff. 2-5-92; emerg. am. (6), eff. 2-12-92; r. and recr. Register, February, 1994, No. 468, eff. 3-1-94.

**NR 101.12 WPDES information reporting.** The department shall calculate effluent quantities for those pollutants whose discharge is regulated by the WPDES permit:

(1) The department shall use the reports submitted under the reporting requirements of the permit for each calendar year.

(2) For the purposes of this section, an analytic result reported as less than the limit of quantitation shall be applied as a zero result.

(3) The daily flow to be used in calculating effluent quantities shall be one of the following:

(a) The monthly average flow, for persons required to monitor daily flows and report monthly average flows.

(b) The daily flow, for persons required to monitor weekly, monthly or quarterly flows and report daily flows.

(4) The daily concentrations to be used in calculating effluent quantities shall be one of the following:

(a) The monthly average concentration, for persons required to monitor daily discharge concentrations and report monthly averages.

(b) The representative concentrations, for persons required to monitor concentrations on a weekly, monthly or quarterly basis and report a single representative value.

(5) The department shall calculate the effluent quantities as pounds per month using the values from subs. (3) and (4) and all of the following:

(a) The department shall calculate effluent quantities for pollutants with effluent limits in effect for each month.

(b) Reported quantities shall be used in place of calculated quantities.

(c) For pollutants reported as concentrations, the effluent quantity shall be calculated as: the daily flow from sub. (3) (a) or (b), times the daily concentrations from sub. (4) (a) or (b), times 8.34, times the number of discharge days.

(d) For pollutants reported as quantities, the effluent quantities shall be calculated as one of the following:

1. The sum of reported quantities by month, where this represents the total discharge of the pollutant, or

2. The reported monthly average quantity times the number of discharge days.

(e) The number of discharge days shall be assumed to be the number of calendar days in each month, or the actual number of discharge days in each month where adequate information is available from the reported data to determine the number of discharge days.

(6) The department shall mail a summary report of its calculations to the reporting person by March 1 of each year. The purpose of this mailing is to provide the opportunity for the reporting person to verify the department's use of the reported data and calculation results. Persons may request adjustments to the calculation results on the summary report with supporting documentation. The summary report must be returned by April 1 and must identify the person verifying the data. The department shall notify the person of its findings, for exceptions only, by May 1.

(7) Quantities of substances present in water influent to a facility may be deducted from effluent quantities of such substances. To apply this deduction to municipal reporting the influent water shall be the raw water source for the public drinking water system serving the municipality, a well serving the wastewater treatment facility, or a representative private well. Facilities shall make this deduction the summary provided for their review under sub. (6). Influent quantities shall be determined using one of the following and subtracted from the effluent quantities calculated as in sub. (5) (c) except that the difference may not be a negative number:

(a) Influent quantities of BOD<sub>5</sub> and total suspended solids shall be determined by samples taken over an operational day once per month, in lieu of more frequent monitoring, and averaged for the year. Influent quantities for each month shall be calculated as the average influent concentration, times the daily flow under sub. (3), times 8.34.

(b) Influent quantities for other pollutants shall be determined by samples taken over an operational day once per quarter, in lieu of more frequent monitoring, and averaged for the year. Influent quantities for each month shall be calculated as the average influent concentration, times the daily flow under sub. (3), times 8.34.

**History:** Cr. Register, December, 1977, No. 264, eff. 1-1-78; emerg. am. (2), (6) and (7), cr. (4) (c) 3., eff. 2-12-92; r. and recr. Register, February, 1994, No. 468, eff. 3-1-94.

**NR 101.13 Wastewater fees.** An annual wastewater fee shall be assessed to each facility holding a WPDES permit and reporting discharges during the calendar year:

(1) The annual wastewater fee shall consist of the greater of the base fee under sub. (2) or a discharge fee under sub. (3). The effect of this section is to assess fees to each holder of a WPDES permit.

(2) The base fee shall be \$500 for facilities classified as a major permittee, \$250 for facilities classified as a minor permittee, or \$100 for facilities regulated by a general permit issued under s. 147.023, Stats., except that until

calendar year 1996 there shall be no base fee for general permit holders.

(3) The discharge fee shall be the total of fees for individual pollutants determined by multiplying the effluent quantities from s. NR 101.12 (5) times the applicable limit rate determined in accordance with sub. (4), times the applicable adjustment factor determined in accordance with sub. (8).

(4) The limit rate for each month of discharge shall be based on the limit from one of the following:

(a) An effluent limit expressed as a concentration for the discharge of a pollutant. The limit rate in dollars per pound for a pollutant is the inverse of the effluent limit when the effluent limit is expressed in units of milligrams per liter. If more than one such limit is in effect for the same pollutant in a permit, the limit which yields the highest limit rate shall be used.

(b) A water quality based effluent limit under s. 147.04 (5), Stats., and expressed in units of pounds per day for the discharge of a pollutant where no effluent limit under par. (a) is in effect for the same pollutant. A concentration factor expressed in units of milligrams per liter shall be calculated by dividing the mass limit by the product of the industrial annual average discharge flow, or municipal design flow, times 8.34. The limit rate in dollars per pound is the inverse of the concentration factor. If more than one water quality-based mass limit is in effect for the same pollutant in a permit, the mass limit which yields the highest limit rate shall be used for the rate calculation for that pollutant.

(c) A categorical effluent limit under s. 147.04 (2), Stats., and expressed in units of pounds per day for the discharge of a pollutant where there is no effluent limit under par. (a) for the same pollutant. The limit rate for BOD<sub>5</sub> shall be \$0.03 per pound, for total suspended solids shall be \$0.02 per pound, and for other pollutants shall be a rate calculated as in par. (b) substituting the categorical limit for water quality based effluent limit.

(d) Where a water quality based effluent limit and a categorical limit are in effect for the same pollutant in a permit, and there is no effluent limit under par. (a) for the pollutant, the water quality based effluent limit shall be used to calculate the limit rate as in par. (b).

(f) For groundwater discharges the limit rate shall be calculated as in par. (a), (b) or (c), except that the limit rate for BOD<sub>5</sub> and total suspended solids shall be \$0.00 per pound and for nitrogen above the yearly crop nutrient uptake rate shall be \$0.10 per pound and for chloride shall be \$0.008 per pound. The crop nutrient uptake rate to be used for this paragraph shall be those published in USGS-SCS-Wisconsin Section IV Technical Guide 633 table 2 07/87.

(5) For the purpose of calculating the limit rate, only those limits established under the following authorities may be used:

(a) Categorical limits established under s. 147.04 (1), (2) or (4), Stats., and chs. NR 220, 210 or 221 to 297.

(b) Effluent limits based on a numerical water quality criteria promulgated under ch. NR 105 and for which an effluent limitation has been calculated under ch. NR 106.

(c) Effluent limits established in accordance with ch. NR 217, except that until 90% of affected dischargers receive such limits or a variance from the limits there shall be no fees for the discharge of phosphorus.

(d) Effluent limits established under s. NR 106.12.

(e) Effluent limits established to protect groundwater quality based on numeric standards promulgated in ch. NR 140.

(6) Where an effluent limit for the discharge of a pollutant is a constituent of another limited pollutant, the most restrictive limit shall be used for the rate calculation.

(7) The maximum limit rate for each pollutant shall be \$2,500 per pound.

(8) The annual adjustment factors shall be determined by the department as follows:

(a) Revenue goals, one for municipal dischargers and another for other dischargers subject to these fees, shall be established in accordance with s. 144.96 (3) (cm) 1., 2. and 3., Stats.

(b) The municipal adjustment factor shall be calculated annually by subtracting the total of applicable base fees under sub. (2) from the municipal revenue goal under par. (a) and then dividing the difference by the total of applicable discharge fees under sub. (3).

(c) The adjustment factor for other dischargers shall be calculated annually by subtracting the total of applicable base fees under sub. (2) from the revenue goal for other dischargers under par. (a) and then dividing the difference by the total of applicable discharge fees under sub. (3).

(9) The department shall annually send a summary of reported data and projected wastewater fees, based on the first 6 months of the calendar year, to each person subject to this rule by August 1. The purpose of this mailing is to provide preliminary information for budgeting.

(10) The department shall mail statements annually to persons owning or operating facilities required to pay wastewater fees under this section.

(11) Wastewater fees payable under this section shall be paid to the department within 30 days of the statement date.

*History:* Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (8), Register, June, 1986, No. 366, eff. 7-1-86; emerg. am. (3) and (4), r. (6), renum. (7) and (8) to be (6) and (7) and am. (6), eff. 2-12-92; r. and recr. Register, February, 1994, No. 458, eff. 3-1-94.

**NR 101.31 Discharge environmental fees.** (1) Persons subject to the provisions of this chapter shall pay to the department an annual discharge environmental fee for each facility for which a report is required pursuant to s. NR 101.11.

(2) For each facility the discharge environmental fee shall be the effluent fee determined in accordance with s. NR 101.13.

(3) The department shall mail statements annually to persons owning or operating facilities required to pay discharge environmental fees. The first statements issued in accordance with the provisions of this section shall be

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mailed by May 1, 1979, and shall be based on calendar year 1978 discharges.

(4) Fees payable in accordance with this section shall be paid to the department within 30 days of the statement date.

**History:** Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) and (2), Register, May, 1993, No. 449, eff. 6-1-93; correction in (2) made under s. 13.93 (2m) (b) 7, Stats., Register, September, 1995, No. 477.