

NR 110



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Anthony S. Earl
Secretary

BOX 7921
MADISON, WISCONSIN 53707

IN REPLY REFER TO: _____

STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) ss

RECEIVED
SEP 10 1976
2:10 pm
REVISOR OF STATUTES
BUREAU G.N.P.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Anthony S. Earl, 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-72-76 was duly approved and adopted by this Department on July 29, 1976. 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 Pyare Square Building in the Village of Shorewood Hills, this 10TH day of September, 1976.

Anthony S. Earl, Secretary

(SEAL)

STATE OF WISCONSIN NATURAL RESOURCES BOARD

.....
IN THE MATTER of repealing and recreating .
section NR 110.05 of the Wisconsin . WQ-72-76
Administrative Code pertaining to sewer .
extensions .
.....

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

REPEALING AND RECREATING RULES

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by sections 144.025 and 144.04 and chapters 147 and 227, Wisconsin Statutes, the Natural Resources Board hereby repeals and recreates rules as follows:

SECTION 1 - Section NR 110.05 is repealed and recreated to read:

(1) It is the purpose of this section to condition department approval of requests for sanitary sewer extensions upon consistency with and enhancement of the goal of abatement of pollution of the waters of the state.

(1m) Definitions. For the purpose of this rule, the following definitions will apply.

(a) "Sewer extension" shall mean: 1) an extension of sanitary sewers to serve areas not previously served; 2) relief sewers; and 3) interceptor sewers. Excluded from this definition shall be combined sewer relays, sanitary sewer relays, sewer system rehabilitation and other such improvements made in a previously existing sewer system to replace inadequate structures.

(b) "Dry weather flow" is that flow which occurs in the absence of wet weather flow conditions, and includes infiltration resulting from seasonal high ground water.

(c) "Wet weather flow" is that flow which can be attributed to precipitation or snowmelt, including but not limited to rain, sleet, snow, hail, melting snow, or stream flooding.

(2) Requests for sanitary sewer extensions may be approved if the sewer will be tributary to:

(a) A sewerage system which experiences no dry weather or wet weather by-passing; and

(b) A sewage treatment plant which discharges an effluent in compliance with the monthly average effluent limitations for biochemical oxygen demand (BOD) and total suspended solids contained in Wis. Adm. Code chapters NR 210 or 214 as appropriate, or with more stringent BOD and total suspended solids effluent limitations required to achieve water quality standards derived from Wis. Adm. Code chapters NR 102-104.

(c) In determining whether a discharged effluent is in compliance with the monthly average effluent limitations for biochemical oxygen demand (BOD) and total suspended solids contained in Wis. Adm. Code chapters NR 210 or 214 as appropriate, or with more stringent BOD and total suspended solids effluent limitations required to achieve water quality standards derived from Wis. Adm. Code chapters NR 102-104, the following procedure will apply:

1. Compliance will be determined by staff review of up to the previous 12 months of discharge monitoring data. If 12 months of data are not available, the review will be based on the data that are available.

2. More than a total of 3 violations of the monthly average limitations for BOD or suspended solids in the previous 12 months (or the equivalent ratio for the number of months of data available) shall cause denial, subject to the following additional considerations:

a. Recognition of the inherent inaccuracy of the BOD and suspended solids tests may be given by utilization of a factor of 1.3X for BOD and 1.2X for suspended solids for purposes of determining compliance with the limit as specified in the permit.

b. The department may grant approval if, in its judgment, it determines that the plant has in recent months been in compliance, thus demonstrating a trend towards better operation.

c. Consideration may be given in those instances where effluent violations have been caused by algae growth in a treatment facility utilizing lagoons as the principal treatment device.

d. The department may grant approval if, in its judgment, it determines that noncompliance with the effluent limitations has been caused by operating difficulties associated with plant startup for those sewage treatment facilities which have recently been constructed or undergone major modification or expansion.

(3) Denial of Requests. (a) Requests for sanitary sewer extensions shall be denied if the sewer will be tributary to:

1. A sewerage system which contains any bypass(es) or overflow(s) which operate during dry weather; or

2. A sewage treatment plant which discharges an effluent not in compliance with the monthly average effluent limitations for biochemical oxygen demand (BOD) and total suspended solids contained in Wis. Adm. Code chapters NR 210 or 214 as appropriate, or with more stringent BOD and total suspended solids effluent limitations required to achieve water quality standards derived from Wis. Adm. Code chapters NR 102-104.

(b) Requests for sewer extensions otherwise prohibited by this subsection may be approved if the owner of the treatment works, or the owner of the sewerage system, submits to the department an acceptable program to assure provision of the appropriate effluent quality, with no dry weather bypass(es) or overflow(s), by July 1, 1982. The program must include a time schedule for completion of the necessary construction or upgrading. It must also include proof of financial ability and commitment to complete the program in accordance with the time schedule.

(4) Requests for sanitary sewer extensions shall be denied if the sewer will be tributary to a sewerage system which contains any bypass(es) or overflow(s) that operate under wet weather conditions, with the following exception:

(a) The request may be approved if the owner of the treatment works, or the owner of the sewerage system within which the bypassing occurs, submits to the department an acceptable program for correction of the bypass(es) or overflow(s), including a time schedule for completion of the corrective work, and proof of financial ability and commitment to complete the work in accordance with the schedule.

(b) In the event the applicant submits a program for correction which includes a time schedule extending beyond July 1, 1982, the following procedure will be employed:

1. The department will make a tentative determination as to the acceptability of the program and the time schedule;

2. Written notice of that tentative determination will be mailed to each member of the natural resources board;

3. If, within 15 days of the date of mailing of that notice, 4 members of the natural resources board notify the department in writing of their intention to take jurisdiction over the request, the applicant will be notified and the matter will be placed on the agenda of the natural resources board for the following month;

4. If the natural resources board takes jurisdiction over the matter as described, the final decision as to approval or denial of the request will be made by the natural resources board;

5. If the natural resources board does not take jurisdiction over the matter, the tentative determination of the department will be deemed approved by the natural resources board and that decision will be made final by notification to the applicant.

(5) Variances from the requirements of subsections (3) and (4) may be granted by the department to allow sewer extensions otherwise prohibited by this rule upon determination by the department of any of the following:

(a) That construction of the subdivision, commercial establishment, institutional facility or industrial plant had commenced prior to May 24, 1976, as evidenced by the issuance of a building permit;

(b) That the area to be served was developed prior to May 24, 1976 and that the sewer extension will eliminate use of existing private waste disposal systems which pose a threat to the public health or safety, provided that connections to the sewer are allowed only for the existing development;

(c) That the sewers to be installed will result in the elimination of existing dry weather overflow(s) or bypass(es), or will result in the abandonment of an existing inadequate sewage treatment plant;

(d) That the proposed extension is a revision to a sewer previously approved by the department, providing that the revision results in no increase in the anticipated waste discharge to the sewer system;

(e) That the facilities to be served are intended primarily to provide educational, humanitarian, or charitable community services;

(f) That the program, time schedule, and the commitment to proceed are established in a court-approved stipulation, order, or judgment.

(6) As a condition of any approval granted under subsection (3), (4) or (5) of this rule, the department may require that an applicant for a sewer extension restrict the number of connections made to such sewer in accordance with a prescribed schedule.

(7) Failure of the owner of the treatment works, or the owner of the sewerage system, to comply with any element of an acceptable program, time schedule,

financial commitment, or other condition of approval established pursuant to this rule, shall cause denial of all subsequent requests for sewer extensions which would be tributary to the treatment works or sewerage system, except in those cases in which the department determines that a revision or modification of that element of an acceptable program, time schedule, financial commitment, or other condition of approval established pursuant to this rule is necessary because of the happening of an event over which the applicant has little or no control.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on July 29, 1976.

The rules contained herein shall take effect upon publication.

Dated at Madison, Wisconsin 10 September 1976

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Anthony S. Earl
Anthony S. Earl, Secretary

(SEAL)