



George E. Meyer
Secretary

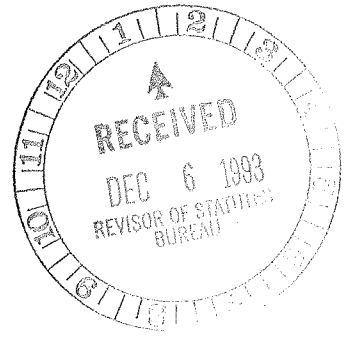
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

101 South Webster Street
Box 7921
Madison, Wisconsin 53707
TELEPHONE 608-266-2621
TELEFAX 608-267-3579
TDD 608-267-6897

STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, 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. TS-34-93 was duly approved and adopted by this Department on September 23, 1993. 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 the Natural Resources Building in the City of Madison, this 17th day of November, 1993

George E. Meyer
George E. Meyer, Secretary

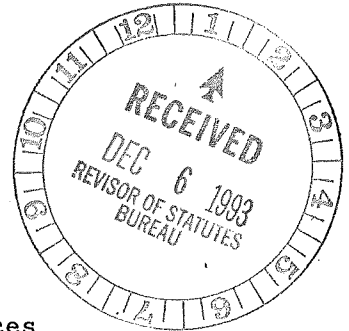
(SEAL)



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

IN THE MATTER of repealing NR 101.14 to 101.31; renumbering s. NR 101.03 (1), (3) to (6), (8) to (11); amending ch. NR 101 (title), ss. NR 101.01, 101.03(2), 101.03(8), 101.03(13), repealing and recreating ss. NR 101.11 to 101.13; and creating ss. NR 101.03(4) to (6) of the Wisconsin Administrative Code pertaining to the wastewater fee program

TS-34-93



Analysis Prepared by the Department of Natural Resources

Statutory authority: S. 144.96, Stats.

Statutes interpreted: Section 144.96 requires wastewater dischargers to annually report the volume and characterization of their discharge. The reports are used to assess Wastewater Fees under a rule adopted by the Department.

The proposed revisions to ch. NR 101 implement the 1991-1993 Biennial Budget Act, the 1992-1993 Budget Adjustment Bill, and 1993 Wisconsin Act 9, revisions to s. 144.96. These call on the Department of Natural Resources to collect 100% of GPR appropriations in the DNR Bureaus of Wastewater Management, Water Resources Management (with exemptions), and 50% of the GPR Appropriations in the DNR Office of Technical Services through a new process adopted by rule. Municipal and industrial dischargers are each required to pay 50% of the total fees and the total fees are capped at the FY 1993 level. The fees are to be paid by holders of WPDES permits based on the pollutants in each WPDES permit specified by rule, the toxicity of the pollutants, the quantity of the pollutant discharged, and the quality of the receiving waters.

In reaction to the 1991-1993 Biennial Budget Act requirements, the department initiated a Technical Advisory Committee to assist with the drafting of a new rule. Actually four rules have been proposed; emergency rule order TS-9-92 (E) for 1991 fees, permanent rule order TS-25-92 for 1992 fees was adopted in September 1992 - but suspended by Legislative committee, emergency rule order TS-32-93 (E) for 1992 fees adopted in June 1993, and this rule for 1993 and beyond. This proposed rule closely parallels the emergency rule. The attached rule would result in revenue being collected from holders of WPDES permits through a Base fee or a Discharge fee. The Base fee is \$500 for major permittees, \$250 for minor permittees, or \$100 for general permittees although the base fees for general permittees will not be assessed until 1996. The Discharge fee is dependent on the annual discharge of pollutants whose discharge is limited by the permit and fee rates based on the limits. Discharge data will come from the Discharge Monitoring and Reporting forms required by the permits. The annual industrial and municipal adjustment factors, for the Discharge fees, result in the appropriate revenue targets.

SECTION 1. Chapter NR 101 (title) is amended to read:

Chapter NR 101 (title)
REPORTS AND FEES FOR WASTEWATER DISCHARGES OF
~~INDUSTRIAL WASTES AND TOXIC AND~~
~~HAZARDOUS SUBSTANCES~~

SECTION 2. NR 101.01 is amended to read:

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 ~~discharge environmental~~ wastewater fees by persons discharging ~~industrial wastes or toxic and hazardous substances~~ or municipal wastewaters or other discharges requiring a WPDES permit .

Note: This chapter does not establish any limitations on discharges of ~~industrial wastes or toxic and hazardous substances~~ 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.

SECTION 3. NR 101.03(1) is renumbered NR 101.03(8) and amended to read:

NR 101.03(8) "Person" means an individual, partnership, corporation, association, municipality, state agency, or interstate agency owning or operating a facility discharging ~~effluents~~ wastewater to a surface water, to a land disposal system, or to a publicly owned treatment works.

SECTION 4. NR 101.03(2) is amended to read:

NR 101.03(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.

SECTION 5. NR 101.03(3) to (6) and (8) to (11) are renumbered NR 101.03(13), (12), (3), (10), (9), (1), (11) & (14), respectively, and sub. (13), as renumbered, is amended to read:

NR 101.03 (13) ~~"Effluent"~~ "Wastewater" means any ~~discharge of~~ process waste water, cooling water, ~~or~~ 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. ~~Precipitation runoff and liquid agricultural wastes used as soil fertilizer are excluded from this definition unless monitoring of such discharges is required under a WPDES discharge permit. Animal wastes regulated by ch. NR 243 are excluded unless, as the result of a discharge to waters of the state, a WPDES permit requires the construction of a treatment work.~~

SECTION 6. NR 101.03(4) to (6) are created to read:

NR 101.03(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 obtain 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.

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 on 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 BOD₅ 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.

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 BOD₅ 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 BOD₅ 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.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 23, 1993.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin November 17, 1993

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary

(SEAL)

