

2001 DRAFTING REQUEST

Bill

Received: 09/18/2000

Received By: traderc

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Grinde

This file may be shown to any legislator: NO

Drafter: traderc

May Contact:

Alt. Drafters:

Subject: Environment - water quality

Extra Copies: DNR

Pre Topic:

DOA:.....Wong -

Topic:

Storm water permits and enforcement

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	traderc 12/01/2000	gilfokm 12/02/2000	martykr 12/04/2000	_____	lrb_docadmin 12/04/2000		S&L
/2	traderc 12/07/2000	gilfokm 12/07/2000	rschluet 12/07/2000	_____	lrb_docadmin 12/07/2000		S&L
/3	traderc 01/11/2001	gilfokm 01/11/2001	rschluet 01/12/2001	_____	lrb_docadmin 01/12/2001		S&L

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/2	traderc 12/07/2000	gilfokm 12/07/2000	rschluet 12/07/2000	_____	lrb_docadmin 12/07/2000		S&L

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13-1/11-01 1-12-1 1-12-1 <END>

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/1	traderc 12/01/2000	gilfokm 12/02/2000	martykr 12/04/2000		lrb_docadmin 12/04/2000		S&L

1/2 - 12/17 King
 12.7.00
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DOA:.....Wong -

Topic:

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Medium

Storm water regulation enforcement appropriation

Instructions:

See Attached

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1/?	traderc	<i>1-12/2 Wong</i>	<i>*m 12/4</i>	<i>2/2 13 *m 4</i>			

FE Sent For:

<END>

2001-2003 Statutory Language Proposals

Division: ENFORCEMENT AND SCIENCE

Bureau: LAW ENFORCEMENT

Issue/Topic: STORM WATER REGULATION ENFORCEMENT

Proposed Change: Create appropriation s. 20.370 (3)(bj) – *storm water enforcement -- fees*. From the general fund, from the moneys received from fees under s. 283.33 (9), the amounts in the schedule for enforcement of the storm water discharge permit program under Ch. 283.33.

Explanatory Note: The increasing enforcement demand related to current and expected storm water permitting actions exceeds the existing ability of the Department to provide service. The Department has proposed the addition of an enforcement specialist, funded through storm water permit fees for its law enforcement bureau. This appropriation provides a means to provide that funding within the appropriation structure of for the Department's Enforcement and Science Division.

Desired Effective Date: Upon the effective date of the budget act.

Contact Person: Eric Ebersberger, MB/5, (6-0818); Lance Potter, MB/5, (7-7418).

2001-2003 Statutory Language Proposals

Division: WATER

Bureau: WATERSHED MANAGEMENT

Issue/Topic: STORM WATER DISCHARGE PERMITS AND ENFORCEMENT

Proposed Change: Clarify which municipal separate storm sewer systems need to be required to obtain storm water permit coverage or must be evaluated for same – as required by USEPA Phase 2 Storm water rules – by amending s. 283.33(1), Stats. as follows:

283.33(1) REQUIREMENT. An owner or operator shall obtain a permit under this section for any of the following:

...

(b) A discharge of storm water from a municipal separate storm sewer system serving an incorporated area with a population of 100,000 or more as determined by the 1990 Decennial Census by the U. S. Bureau of Census.

(c) A discharge of storm water from a municipal separate storm sewer system serving an area located in an urbanized area as determined by the latest Decennial Census by the U. S. Bureau of Census.

(ce) A discharge of storm water from a municipal separate storm sewer system serving an area with a population of 10,000 or more and having a population density of 1,000 or more per square mile that is designated by the department to obtain a permit under this section based on an evaluation of whether the storm water discharge results in or that the potential to result in exceedances of water quality standards, including impairment of designated uses or other significant water quality impacts including habitat and biological impacts.

(cf) . A discharge of storm water from a municipal separate storm sewer system that is designated by the department to obtain a permit under this section because it contributes substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer system that is regulated under this section.

The following amendments should be made to storm water-related parts of ch. 283 to eliminate confusion:

a. Amend s. 283.33(8) to read as follows:

283.33(8) RULEMAKING. The department shall promulgate rules ~~containing criteria for identifying storm water discharges for which permits are required under sub (1) to administer this section.~~ The department may not require a permit under this section for diffused surface water drainage or agricultural storm water discharges.

b. Amend s. 283.89(2m), Stats. [dealing with ability to issue citations for civil violations of storm water permits/rules] as follows:

283.89(2m) If the department finds a violation of s. 283.33 (1) to (8) for which a person is subject to a forfeiture under s. 283.91(2), the department ~~shall~~ may issue a citation and the procedures in ss. 23.50 to 23.99 apply.

Explanatory Note:

These changes are necessary to ensure compliance with Federal Phase 2 storm water regulations promulgated in December 1999. They will also eliminate confusion regarding the issuing of citations for storm water permit violations and regarding Department authority to promulgate rules regarding storm water discharges.

Desired Effective Date:

Upon passage of the 01-03 biennial budget.

Contact Person(s):

Eric Ebersberger, MB/5, 266-0818
Dan Graff, LS/5, 264-8527
Russ Rasmussen, WT/2, 267-7651

separate storm sewer systems, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the Director, be authorized to discharge under a general permit without submitting a notice of intent where the Director finds that a notice of intent requirement would be inappropriate. In making such a finding, the Director shall consider: the type of discharge; the expected nature of the discharge; the potential for toxic and conventional pollutants in the discharges; the expected volume of the discharges; other means of identifying discharges covered by the permit; and the estimated number of discharges to be covered by the permit. The Director shall provide in the public notice of the general permit the reasons for not requiring a notice of intent.

* * * * *

5. Add §§ 122.30 through 122.37 to subpart B to read as follows:

§ 122.30 What are the objectives of the storm water regulations for small MS4s?

(a) Sections 122.30 through 122.37 are written in a "readable regulation" format that includes both rule requirements and EPA guidance that is not legally binding. EPA has clearly distinguished its recommended guidance from the rule requirements by putting the guidance in a separate paragraph headed by the word "guidance".

(b) Under the statutory mandate in section 402(p)(6) of the Clean Water Act, the purpose of this portion of the storm water program is to designate additional sources that need to be regulated to protect water quality and to establish a comprehensive storm water program to regulate these sources. (Because the storm water program is part of the National Pollutant Discharge Elimination System (NPDES) Program, you should also refer to § 122.1 which addresses the broader purpose of the NPDES program.)

(c) Storm water runoff continues to harm the nation's waters. Runoff from lands modified by human activities can harm surface water resources in several ways including by changing natural hydrologic patterns and by elevating pollutant concentrations and loadings. Storm water runoff may contain or mobilize high levels of contaminants, such as sediment, suspended solids, nutrients, heavy metals, pathogens, toxins, oxygen-demanding substances, and floatables.

(d) EPA strongly encourages partnerships and the watershed approach as the management framework for efficiently, effectively, and

consistently protecting and restoring aquatic ecosystems and protecting public health.

§ 122.31 As a Tribe, what is my role under the NPDES storm water program?

As a Tribe you may:

(a) Be authorized to operate the NPDES program including the storm water program, after EPA determines that you are eligible for treatment in the same manner as a State under §§ 123.31 through 123.34 of this chapter. (If you do not have an authorized NPDES program, EPA implements the program for discharges on your reservation as well as other Indian country, generally.);

(b) Be classified as an owner of a regulated small MS4, as defined in § 122.32. (Designation of your Tribe as an owner of a small MS4 for purposes of this part is an approach that is consistent with EPA's 1984 Indian Policy of operating on a government-to-government basis with EPA looking to Tribes as the lead governmental authorities to address environmental issues on their reservations as appropriate. If you operate a separate storm sewer system that meets the definition of a regulated small MS4, you are subject to the requirements under §§ 122.33 through 122.35. If you are not designated as a regulated small MS4, you may ask EPA to designate you as such for the purposes of this part.); or

(c) Be a discharger of storm water associated with industrial activity or small construction activity under §§ 122.26(b)(14) or (b)(15), in which case you must meet the applicable requirements. Within Indian country, the NPDES permitting authority is generally EPA, unless you are authorized to administer the NPDES program.

§ 122.32 As an operator of a small MS4, am I regulated under the NPDES storm water program?

(a) Unless you qualify for a waiver under paragraph (c) of this section, you are regulated if you operate a small MS4, including but not limited to systems operated by federal, State, Tribal, and local governments, including State departments of transportation; and:

(1) Your small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. (If your small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated); or

(2) You are designated by the NPDES permitting authority, including where the designation is pursuant to §§ 123.35(b)(3) and (b)(4) of this chapter,

or is based upon a petition under § 122.26(f).

(b) You may be the subject of a petition to the NPDES permitting authority to require an NPDES permit for your discharge of storm water. If the NPDES permitting authority determines that you need a permit, you are required to comply with §§ 122.33 through 122.35.

(c) The NPDES permitting authority may waive the requirements otherwise applicable to you if you meet the criteria of paragraph (d) or (e) of this section. If you receive a waiver under this section, you may subsequently be required to seek coverage under an NPDES permit in accordance with § 122.33(a) if circumstances change. (See also § 123.35(b) of this chapter.)

(d) The NPDES permitting authority may waive permit coverage if your MS4 serves a population of less than 1,000 within the urbanized area and you meet the following criteria:

(1) Your system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES storm water program (see § 123.35(b)(4) of this chapter); and

(2) If you discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which you discharge, storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established "total maximum daily load" (TMDL) that addresses the pollutant(s) of concern.

(e) The NPDES permitting authority may waive permit coverage if your MS4 serves a population under 10,000 and you meet the following criteria:

(1) The permitting authority has evaluated all waters of the U.S., including small streams, tributaries, lakes, and ponds, that receive a discharge from your MS4;

(2) For all such waters, the permitting authority has determined that storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern;

(3) For the purpose of this paragraph (e), the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from your MS4; and

(39) § 122.30 (What are the objectives of the storm water regulations for small MS4s?);

(40) § 122.31 (For Indian Tribes only) (As a Tribe, what is my role under the NPDES storm water program?);

(41) § 122.32 (As an operator of a small MS4, am I regulated under the NPDES storm water program?);

(42) § 122.33 (If I am an operator of a regulated small MS4, how do I apply for an NPDES permit? When do I have to apply?);

(43) § 122.34 (As an operator of a regulated small MS4, what will my NPDES MS4 storm water permit require?);

(44) § 122.35 (As an operator of a regulated small MS4, may I share the responsibility to implement the minimum control measures with other entities?); and

(45) § 122.36 (As an operator of a regulated small MS4, what happens if I don't comply with the application or permit requirements in §§ 122.33 through 122.35?).

* * * * *

3. Add § 123.35 to subpart B to read as follows:

§ 123.35 As the NPDES Permitting Authority for regulated small MS4s, what is my role?

(a) You must comply with the requirements for all NPDES permitting authorities under Parts 122, 123, 124, and 125 of this chapter. (This section is meant only to supplement those requirements and discuss specific issues related to the small MS4 storm water program.)

(b) You must develop a process, as well as criteria, to designate small MS4s other than those described in § 122.32(a)(1) of this chapter, as regulated small MS4s to be covered under the NPDES storm water discharge control program. This process must include the authority to designate a small MS4 waived under paragraph (d) of this section if circumstances change. EPA may make designations under this section if a State or Tribe fails to comply with the requirements listed in this paragraph. In making designations of small MS4s, you must:

(1)(i) Develop criteria to evaluate whether a storm water discharge results in or has the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

(ii) Guidance: For determining other significant water quality impacts, EPA recommends a balanced consideration of the following designation criteria on

a watershed or other local basis: discharge to sensitive waters, high growth or growth potential, high population density, contiguity to an urbanized area, significant contributor of pollutants to waters of the United States, and ineffective protection of water quality by other programs;

(2) Apply such criteria, at a minimum, to any small MS4 located outside of an urbanized area serving a jurisdiction with a population density of at least 1,000 people per square mile and a population of at least 10,000;

(3) Designate any small MS4 that meets your criteria by December 9, 2002. You may wait until December 8, 2004 to apply the designation criteria on a watershed basis if you have developed a comprehensive watershed plan. You may apply these criteria to make additional designations at any time, as appropriate; and

(4) Designate any small MS4 that contributes substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer that is regulated by the NPDES storm water program.

(c) You must make a final determination within 180 days from receipt of a petition under § 122.26(f) of this chapter (or analogous State or Tribal law). If you do not do so within that time period, EPA may make a determination on the petition.

(d) You must issue permits consistent with §§ 122.32 through 122.35 of this chapter to all regulated small MS4s. You may waive or phase in the requirements otherwise applicable to regulated small MS4s, as defined in § 122.32(a)(1) of this chapter, under the following circumstances:

(1) You may waive permit coverage for each small MS4s in jurisdictions with a population under 1,000 within the urbanized area where all of the following criteria have been met:

(i) Its discharges are not contributing substantially to the pollutant loadings of a physically interconnected regulated MS4 (see paragraph (b)(4) of this section); and

(ii) If the small MS4 discharges any pollutant(s) that have been identified as a cause of impairment of any water body to which it discharges, storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established "total maximum daily load" (TMDL) that address the pollutant(s) of concern.

(2) You may waive permit coverage for each small MS4 in jurisdictions with a population under 10,000 where all of the following criteria have been met:

(i) You have evaluated all waters of the U.S., including small streams,

tributaries, lakes, and ponds, that receive a discharge from the MS4 eligible for such a waiver.

(ii) For all such waters, you have determined that storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern.

(iii) For the purpose of paragraph (d)(2)(ii) of this section, the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the MS4.

(iv) You have determined that current and future discharges from the MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

(v) Guidance: To help determine other significant water quality impacts, EPA recommends a balanced consideration of the following criteria on a watershed or other local basis: discharge to sensitive waters, high growth or growth potential, high population or commercial density, significant contributor of pollutants to waters of the United States, and ineffective protection of water quality by other programs.

(3) You may phase in permit coverage for small MS4s serving jurisdictions with a population under 10,000 on a schedule consistent with a State watershed permitting approach. Under this approach, you must develop and implement a schedule to phase in permit coverage for approximately 20 percent annually of all small MS4s that qualify for such phased-in coverage. Under this option, all regulated small MS4s are required to have coverage under an NPDES permit by no later than March 8, 2007. Your schedule for phasing in permit coverage for small MS4s must be approved by the Regional Administrator no later than December 10, 2001.

(4) If you choose to phase in permit coverage for small MS4s in jurisdictions with a population under 10,000, in accordance with paragraph (d)(3) of this section, you may also provide waivers in accordance with paragraphs (d)(1) and (d)(2) of this section pursuant to your approved schedule.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0367/1

RCT: King

SOON

DOA:.....Wong - Storm water permits and enforcement

DNote

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

DON'T
GEN. CAT

1

AN ACT ... relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

WATER QUALITY

Current law requires a person to obtain a permit from DNR for certain storm water discharges, including discharges of storm water from a municipal separate storm sewer system serving an incorporated area with a population of 100,000 or more.

This bill requires permits for additional municipal separate storm sewer systems. Under this bill, the operator of a municipal separate storm sewer system must obtain a permit if one of the following applies:

1. The system serves an urbanized area, as determined by the U.S. bureau of the census.
2. The system serves an area with a population of 10,000 or more and a population density of 1,000 or more per square mile and DNR requires the operator to obtain a permit based on an evaluation of the system's impact on water quality.
3. DNR requires the operator to obtain a permit because the system contributes pollutants to an interconnected system that is required to obtain a permit.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 20.370 (3) (bj) of the statutes is created to read:

2 20.370 (3) (bj) *Storm water enforcement* fees. From the general fund, from the
3 moneys received from the fees under s. 283.33 (9), the amounts in the schedule for
4 enforcement of the storm water permit program under s. 283.33.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5 SECTION 2. 20.370 (4) (bj) of the statutes is amended to read:

6 20.370 (4) (bj) *Storm water management* — fees. From the general fund, the
7 amounts in the schedule for the administration of the storm water discharge permit
8 program under s. 283.33. All moneys received under s. 283.33 (9), except moneys
9 appropriated under sub. (3) (bj), shall be credited to this appropriation account.

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185.

10 SECTION 3. 283.33 (1) (b) of the statutes is amended to read:

11 283.33 (1) (b) A discharge of storm water from a municipal separate storm
12 sewer system serving an incorporated area with a population of 100,000 or more, as
13 determined by the 1990 federal census.

History: 1993 a. 16; 1995 a. 227 s. 852, 858; Stats. 1995 s. 283.33; 1997 a. 27.

14 SECTION 4. 283.33 (1) (c) of the statutes is created to read:

15 283.33 (1) (c) A discharge of storm water from a municipal separate storm
16 sewer system serving an area located in an urbanized area, as determined by the U.S.
17 bureau of the census based on the latest decennial federal census.

1 **SECTION 5.** 283.33 (1) (cg) of the statutes is created to read:

2 283.33 (1) (cg) A discharge of storm water from a municipal separate storm
3 sewer system serving an area with a population of 10,000 or more and a population
4 density of 1,000 or more per square mile, if the system is designated by the
5 department to be regulated under this section based on an evaluation of whether the
6 storm water discharge results in, or has the potential to result in, water quality
7 standards being exceeded, including impairment of designated uses, or in other
8 significant water quality impacts, including habitat and biological impacts.

9 **SECTION 6.** 283.33 (1) (cr) of the statutes is created to read:

10 283.33 (1) (cr) A discharge of storm water from a municipal separate storm
11 sewer system that is designated by the department to be regulated under this section
12 because the system contributes substantially to the pollutant loadings of a physically
13 interconnected municipal separate storm sewer system that is regulated under this
14 section.

15 **SECTION 7.** 283.33 (1) (d) of the statutes is amended to read:

16 283.33 (1) (d) A discharge of storm water from a facility or activity, other than
17 a facility or activity under ~~par. pars. (a) or (b)~~ [✓] to (cr), if the department determines
18 that the discharge either contributes to a violation of a water quality standard or is
19 a significant contributor of pollutants to the waters of the state.

20 History: 1993 a. 16; 1995 a. 227 s. 852, 858; Stats. 1995 s. 283.33; 1997 a. 27.

21 **SECTION 8.** 283.33 (8) of the statutes is amended to read:

22 283.33 (8) **RULE MAKING.** The department shall promulgate rules ~~containing~~
23 ~~criteria for identifying storm water discharges for which permits are required under~~
~~sub. (1) for the administration of this section.~~ The department may not require a

1 permit under this section for diffused surface drainage or agricultural storm water
2 discharges.

3 History: 1993 a. 16; 1995 a. 227 s. 852, 858; Stats. 1995 s. 283.33; 1997 a. 27.

3 SECTION 9. 283.89 (2m) of the statutes is amended to read:

4 283.89 (2m) If the department finds a violation of s. 283.33 (1) to (8) for which
5 a person is subject to a forfeiture under s. 283.91 (2), the department ~~shall~~ may issue
6 a citation and, if the department does issue a citation, the procedures in ss. 23.50 to
7 23.99 apply.

8 History: 1973 c. 74; 1979 c. 34; 1993 a. 16; 1995 a. 227 s. 881; Stats. 1995 s. 283.89; 1997 a. 193.

(END)

DN Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0367/1dn

RCT. *King*

Deadline

Should s. 283.33 (4) (a) (intro.) be amended to reflect the additions to s. 283.33 (1)?

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0367/1dn
RCT:king:kui

December 4, 2000

Should s. 283.33 (4) (a) (intro.) be amended to reflect the additions to s. 283.33 (1)?

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

Tradewell, Becky

From: Grinde, Kirsten
Sent: Thursday, December 07, 2000 9:36 AM
To: Tradewell, Becky
Subject: RE: LRB--0367/1dn

Becky,

This looks fine. Please make the change.

Thanks,

Kirsten

-----Original Message-----

From: Tradewell, Becky
Sent: Thursday, December 07, 2000 9:27 AM
To: Grinde, Kirsten
Subject: FW: LRB--0367/1dn

Kirsten,

I received this message from DNR. It makes sense to me to make this change. Shall I go ahead?

Becky

-----Original Message-----

From: Ebersberger, Eric K
Sent: Wednesday, December 06, 2000 5:39 PM
To: Tradewell, Becky
Cc: Felker-Donsing, Susan
Subject: LRB--0367/1dn

Becky,

re: LRB--0367/1, you had asked whether s. 283.33 (4) (a) (intro.) should be amended to reflect the additions to s. 283.33 (1). The answer is it should. Thanks for catching that.

We have no other suggested changes to the draft. However, staff also mentioned that they thought the introductory analysis should reference the fact that recent federal rule changes, known as USEPA Phase 2 storm water rules, require permits for additional municipalities. Their concern is that they want to make it clear that federal regulations are driving these Ch. 283 changes.

Thank you,
Eric

Eric Ebersberger
DNR Bureau of Management & Budget
608/266-0818
eberse@dnr.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

SOEN

LRB-036712

RCT:kmg:km

1m

DOA:.....Wong - Storm water permits and enforcement

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Federal law now requires states to require ^{tes} permits for additional municipal separate storm sewer systems.

1 AN ACT ^{DON'T GEN. CAT.} relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

WATER QUALITY

Current law requires a person to obtain a permit from DNR for certain storm water discharges, including discharges of storm water from a municipal separate storm sewer system serving an incorporated area with a population of 100,000 or more.

This bill requires permits for additional municipal separate storm sewer systems. Under this bill, the operator of a municipal separate storm sewer system must obtain a permit if one of the following applies:

1. The system serves an urbanized area, as determined by the U.S. bureau of the census.
2. The system serves an area with a population of 10,000 or more and a population density of 1,000 or more per square mile and DNR requires the operator to obtain a permit based on an evaluation of the system's impact on water quality.
3. DNR requires the operator to obtain a permit because the system contributes pollutants to an interconnected system that is required to obtain a permit.

as required by federal law

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.370 (3) (bj) of the statutes is created to read:

2 20.370 (3) (bj) *Storm water enforcement — fees.* From the general fund, from
3 the moneys received from the fees under s. 283.33 (9), the amounts in the schedule
4 for enforcement of the storm water permit program under s. 283.33.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 2.** 20.370 (4) (bj) of the statutes is amended to read:

6 20.370 (4) (bj) *Storm water management — fees.* From the general fund, the
7 amounts in the schedule for the administration of the storm water discharge permit
8 program under s. 283.33. All moneys received under s. 283.33 (9), except moneys
9 appropriated under sub. (3) (bj), shall be credited to this appropriation account.

10 **SECTION 3.** 283.33 (1) (b) of the statutes is amended to read:

11 283.33 (1) (b) A discharge of storm water from a municipal separate storm
12 sewer system serving an incorporated area with a population of 100,000 or more, as
13 determined by the 1990 federal census.

14 **SECTION 4.** 283.33 (1) (c) of the statutes is created to read:

15 283.33 (1) (c) A discharge of storm water from a municipal separate storm
16 sewer system serving an area located in an urbanized area, as determined by the U.S.
17 bureau of the census based on the latest decennial federal census.

18 **SECTION 5.** 283.33 (1) (cg) of the statutes is created to read:

19 283.33 (1) (cg) A discharge of storm water from a municipal separate storm
20 sewer system serving an area with a population of 10,000 or more and a population

1 density of 1,000 or more per square mile, if the system is designated by the
2 department to be regulated under this section based on an evaluation of whether the
3 storm water discharge results in, or has the potential to result in, water quality
4 standards being exceeded, including impairment of designated uses, or in other
5 significant water quality impacts, including habitat and biological impacts.

6 **SECTION 6.** 283.33 (1) (cr) of the statutes is created to read:

7 283.33 (1) (cr) A discharge of storm water from a municipal separate storm
8 sewer system that is designated by the department to be regulated under this section
9 because the system contributes substantially to the pollutant loadings of a physically
10 interconnected municipal separate storm sewer system that is regulated under this
11 section.

12 **SECTION 7.** 283.33 (1) (d) of the statutes is amended to read:

13 283.33 (1) (d) A discharge of storm water from a facility or activity, other than
14 a facility or activity under ~~par. pars. (a) or (b)~~ to (cr), if the department determines
15 that the discharge either contributes to a violation of a water quality standard or is
16 a significant contributor of pollutants to the waters of the state.

17 **SECTION 8.** 283.33 (8) of the statutes is amended to read:

18 283.33 (8) RULE MAKING. The department shall promulgate rules ~~containing~~
19 ~~criteria for identifying storm water discharges for which permits are required under~~
20 ~~sub. (1) for the administration of this section.~~ The department may not require a
21 permit under this section for diffused surface drainage or agricultural storm water
22 discharges.

23 **SECTION 9.** 283.89 (2m) of the statutes is amended to read:

24 283.89 (2m) If the department finds a violation of s. 283.33 (1) to (8) for which
25 a person is subject to a forfeiture under s. 283.91 (2), the department ~~shall~~ may issue

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SECTION 9

1 a citation and, if the department does issue a citation, the procedures in ss. 23.50 to
2 23.99 apply.

3 (END)

Section #. 283.33 (4) (a) (intro.) of the statutes is amended to read:

CR

* 283.33 (4) (a) (intro.) In addition to obtaining a permit under this section, the owner or operator of an industrial activity described in sub. (1) (a) that discharges storm water through a municipal separate storm sewer system described in sub. (1)-(b) ^{to (CR)} shall submit the following information to the owner or operator of the municipal separate storm sewer system:

History: 1993 a. 16; 1995 a. 227 s. 852, 858; Stats. 1995 s. 283.33; 1997 a. 27.

Tradewell, Becky

From: Grinde, Kirsten
Sent: Wednesday, January 10, 2001 7:48 PM
To: Tradewell, Becky
Subject: LRB-0367/2 - Storm water permits and enforcement

Becky,

Please make the following changes to LRB-0367/2:

1. Remove Section 1.
2. Modify Section 2 to state that administration of the storm water discharge permit program includes enforcement.

These changes would deposit and expend all the funds in one appropriation. Existing language under s. 20.370(3)(mk) allows the law enforcement program to enter into agreements or arrangements with, and receive funds from, the department for enforcement of laws administered by the department.

Let me know if you have any questions.

Thanks,

Kirsten

State Budget Office
Department of Administration
101 E. Wilson St., 10th floor
Madison, WI 53707-7864

voice: (608) 266-7973
fax: (608) 267-0372
e-mail: kirsten.grinde@doa.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-036713 3

RCT:kmg:rs

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DOA:.....Wong - Storm water permits and enforcement

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT <sup>DON'T
GEN-CAT.</sup> relating to: the budget.

Analysis by the Legislative Reference Bureau

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2. The system serves an area with a population of 10,000 or more and a population density of 1,000 or more per square mile and DNR requires the operator to obtain a permit based on an evaluation of the system's impact on water quality.
3. DNR requires the operator to obtain a permit because the system contributes pollutants to an interconnected system that is required to obtain a permit.

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9 ~~appropriated under sub. (3) (b)],~~ shall be credited to this appropriation account.

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6 a person is subject to a forfeiture under s. 283.91 (2), the department ~~shall~~ may issue
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9 (END)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0367/3

RCT:kmg:rs

DOA:.....Wong – Storm water permits and enforcement

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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5

(END)