

☞ **09hr\_JCR-AR\_CRule\_10-035\_pt02a**



(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2009-10

(session year)

### Joint

(Assembly, Senate or Joint)

### Committee for Review of Administrative Rules...

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

WT-25-08 Report to Legislature Attachment 2 - Attendees at Public Hearings

| Hearing    | Hearing Date | First Name | Last Name   | Representing                  | Street Address           | City           | State | Zip   | As interest may appear | In support | In opposition | Comments |
|------------|--------------|------------|-------------|-------------------------------|--------------------------|----------------|-------|-------|------------------------|------------|---------------|----------|
| Eau Claire | 04/27/2010   | Richard    | Bardt       |                               | N6294 County Rd V        | Durand         | WI    | 54736 |                        |            | X             |          |
| Eau Claire | 04/27/2010   | Thomas     | Barron      |                               | 14800 28th Ave N, Ste 14 | Plymouth       | MN    | 55447 | X                      |            |               |          |
| Eau Claire | 04/27/2010   | Ken        | Blomberg    | Wisconsin Rural Water Assn.   | 350 Water Way            | Plover         | WI    | 54467 |                        |            | X             | O        |
| Eau Claire | 04/27/2010   | Mike       | Boyd        | Village of Cofax              | PO Box 417               | Cofax          | WI    | 54730 |                        |            |               | O        |
| Eau Claire | 04/27/2010   | Bob        | Carpenter   | Village of Rib Lake           | 409 Broadway St.         | Rib Lake       | WI    | 54470 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Sam        | Claassen    |                               | 5409 River Bluff Dr      | Bloomington    | MN    | 55437 |                        |            | X             |          |
| Eau Claire | 04/27/2010   | Sheryl     | Claifin     |                               | 6769 190th Ave           | Bloomer        | WI    | 54726 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Jesse      | Claifin     |                               | 6769 190th Avenue        | Bloomer        | WI    | 54724 |                        | X          |               | N        |
| Eau Claire | 04/27/2010   | Marie      | Colbeth     | Schottler Family Dairy Farm   | 661 Valley View Trail    | Bloomer        | WI    | 5402  |                        | X          |               | O,N      |
| Eau Claire | 04/27/2010   | Bob        | Croft       | Village of Somerset           | 1953 93rd St.            | Somerset       | WI    | 54025 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Cory       | Davis       | Village of Turtle Lake        | PO Box 11                | Turtle Lake    | WI    | 54889 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Jessica    | Dexter      | Env. Law & Policy Cntr.       | 35 E. Wacker Dr, Ste 130 | Chicago        | IL    | 60657 |                        | X          |               | O        |
| Eau Claire | 04/27/2010   | Ron        | Dickrell    | Marshfield Wastewater Utility | 2601 E. 34th St.         | Marshfield     | WI    | 54404 |                        | X          |               | O        |
| Eau Claire | 04/27/2010   | Dennis     | Donohue     | Manitowoc Milk Prod. Coop     | 1375 Westwood Ln         | Manitowoc      | WI    | 54220 |                        |            | X             |          |
| Eau Claire | 04/27/2010   | Jeff       | Doorenbos   |                               | 1918 Pheasant Run St.    | Shakopee       | MN    | 55379 |                        |            |               |          |
| Eau Claire | 04/27/2010   | Jerry      | Dorritt     |                               | 421 Frenette Dr.         | Chippewa Falls | WI    | 54729 |                        |            |               | O        |
| Eau Claire | 04/27/2010   | James      | Duncan      |                               | P.O. Box 506             | Balsam Lake    | WI    | 54810 |                        | X          |               | O        |
| Eau Claire | 04/27/2010   | Greg       | Engeset     | Village of Balsam Lake        | 130 N. Chestnut          | Ellsworth      | WI    | 54011 |                        | X          |               | N        |
| Eau Claire | 04/27/2010   | Paul       | Fetzer      | Fetzer Farms Inc.             | N4365 CTY RD CC          | Ellmwood       | WI    | 54740 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Ron        | Fredrickson | Clark Co. Health Care Cnt     | W4266 State Rd 29        | Owen           | WI    | 54468 |                        |            |               |          |
| Eau Claire | 04/27/2010   | Roger      | Gasper      |                               | 1822 15th Ave            | Bloomer        | WI    | 54724 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Carl       | Gaulke      | River Falls Muni. Util.       | 222 Lewis St, Ste 228    | River Falls    | WI    | 54022 | X                      |            |               |          |
| Eau Claire | 04/27/2010   | Timothy    | Genthe      | Swiss Valley Farms            | 803 S. School            | Cuba City      | WI    | 53807 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Candice    | Grunseth    | Village of Gilman             | 380 E. Main St.          | Gilman         | WI    | 54433 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Jeff       | Hanson      | Village of Melrose            | 602 3rd St.              | Melrose        | WI    | 54642 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Steve      | Heiskosy    | MN Pollution Control Agency   | 520 Lafayette Rd. N      | St. Paul       | MN    | 55155 |                        |            |               | O        |
| Eau Claire | 04/27/2010   | Dale       | Hexom       | City of La Crosse             | 400 La Crosse St.        | La Crosse      | WI    | 54601 | X                      |            |               |          |
| Eau Claire | 04/27/2010   | Scott      | Hilgart     | City of Park Falls            | PO box 146               | Park Falls     | WI    | 54552 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | George     | Hobbs       | Chippewa Falls Waste. Dept.   | 1125 W. River St         | Chippewa Falls | WI    | 54729 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Dennis     | Holtz       | New Richmond Wastewater       | 517 East First St.       | New Richmond   | WI    | 54017 | X                      |            |               |          |
| Eau Claire | 04/27/2010   | Christophe | Jackson     | Village of Clear Lake         | 160 8th Ave.             | Clear Lake     | WI    | 54005 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | David      | Jelinski    | Dairy Business Assoc.         | 22 North Carrol St       | Madison        | WI    | 53703 | X                      |            |               |          |
| Eau Claire | 04/27/2010   | Mark       | Johnson     | City of La Crosse             | 400 La Crosse St.        | La Crosse      | WI    | 54601 |                        | X          |               | O        |
| Eau Claire | 04/27/2010   | Richard    | Johnson     | Village of Gilman, PWD        | 115 W. Paulin St.        | Gilman         | WI    | 54433 |                        |            |               |          |
| Eau Claire | 04/27/2010   | Pat        | Kearney     | Assoc. Milk Producers, Inc    | 315 N. Broadway          | New Ulm        | MN    | 56073 |                        | X          |               | N        |
| Eau Claire | 04/27/2010   | Josh       | Kern        | Village of Elmwood            | 323 Winter Ave           | Elmwood        | WI    | 54740 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Aaron      | Kidd        | Trinity Farms LLC             | 1022 East Teft           | Blair          | WI    | 54616 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Jerry      | Kitelinger  | City of Reedsburg             | 520 Schaller St.         | Tomah          | WI    | 54660 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Dan        | Knapp       | City of Chetek                | PO Box 194               | Chetek         | WI    | 54728 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Ramon      | Knudson     | Village of Melrose            | PO Box 193               | Melrose        | WI    | 54642 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Peter      | Kramer      |                               | 2307 11 3/8 Ave          | Cameron        | WI    | 54822 |                        |            |               |          |
| Eau Claire | 04/27/2010   | Mark       | Kunde       | Animart Inc.                  | 4736 County Rd GG        | Oshkosh        | WI    | 54904 |                        | X          |               | N        |
| Eau Claire | 04/27/2010   | Cara       | Kurtenbach  | Wausau Paper                  | 100 Paper Place          | Mosinee        | WI    | 54455 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Jeff       | LaBelle     |                               | 18478 60th St.           | Bloomer        | WI    | 54724 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Paul       | Larson      |                               | W4260 Cty Q              | Mindoro        | WI    | 54644 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | Julie      | Larson      |                               | W4255 Cty Q              | Mindoro        | WI    | 54644 |                        | X          |               |          |
| Eau Claire | 04/27/2010   | John       | Larson      |                               | 6502 Pike Bend Rd        | Webster        | WI    | 54893 |                        | X          |               |          |

WT-25-08 Report to Legislature  
 Attachment 2  
 Attendees at Public Hearings

|               |            |           |            |                               |                          |                |    |       |           |           |   |                     |
|---------------|------------|-----------|------------|-------------------------------|--------------------------|----------------|----|-------|-----------|-----------|---|---------------------|
| Eau Claire    | 04/27/2010 | Betsy     | Lawton     | Midwest Env. Advocates        | 551 W. Main St., Ste 200 | Madison        | WI | 53703 |           | X         |   | O                   |
| Eau Claire    | 04/27/2010 | Ted       | Ludwig     |                               | E6341 County Rd D        | Colfax         | WI | 54730 |           | x         |   | O                   |
| Eau Claire    | 04/27/2010 | John      | Manske     | Cooperative Network           | 131 W. Wilson, Ste 400   | Madison        | WI | 53703 |           | x         |   |                     |
| Eau Claire    | 04/27/2010 | Mike      | Meindel    |                               | 18821 CTH Q              | Bloomer        | WI | 54724 |           | x         |   |                     |
| Eau Claire    | 04/27/2010 | Gary      | Newton     | Village of Baldwin            | 382 County Rd. Y         | Baldwin        | WI | 54002 |           | x         |   |                     |
| Eau Claire    | 04/27/2010 | Mark      | Oberhelman | Glenwood City/Hawkins Inc.    | PO Box 85                | Glenwood City  | WI | 54013 | x         |           |   | O, N                |
| Eau Claire    | 04/27/2010 | Jim       | Olson      |                               | 550 Graham Ave #304      | Eau Claire     | WI | 54701 | x         |           |   |                     |
| Eau Claire    | 04/27/2010 | Menna     | Otten      | Callville Dairy               | W4733 Cty Hwy C          | Neillsville    | WI | 54456 |           | x         |   | O                   |
| Eau Claire    | 04/27/2010 | Greg      | Paul       | City of La Crosse             | 905 Joseph Houska Dr.    | La Crosse      | WI | 54601 | x         |           |   |                     |
| Eau Claire    | 04/27/2010 | Richard   | Pulcher    | Village of Lublin             | W13276 So. St.           | Lublin         | WI | 54447 |           |           | x | N                   |
| Eau Claire    | 04/27/2010 | Randy     | Reeg       | Thorp Muni Water & Sewer      | PO Box 334               | Thorp          | WI | 54771 |           |           | x | N                   |
| Eau Claire    | 04/27/2010 | Scott     | Reimer     | City of Rice Lake             | 320 W. Coleman St.       | Rice Lake      | WI | 54868 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Jamie     | Reitz      | Village of Elmwood            | 323 Winter Ave           | Elmwood        | WI | 54740 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Jay       | Richardson | Son-Bow Farms, Inc            | N7872 Cty Rd CC          | Spring Valley  | WI | 54767 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Richard   | Rubenzler  | City of Chippewa Falls        | 30 West Central St       | Chippewa Falls | WI | 54729 | x         |           |   |                     |
| Eau Claire    | 04/27/2010 | Pam       | Rueckl     |                               | E5404 County Rd D        | Menomomie      | WI | 54751 |           | x         |   | N                   |
| Eau Claire    | 04/27/2010 | Dick      | Russett    | City of Superior ESDPW        | E5404 County Rd D        | Menomomie      | WI | 54751 |           | x         |   | N                   |
| Eau Claire    | 04/27/2010 | Kevin     | Schauer    | Village of Colfax             | 51 E 1st St.             | Superior       | WI | 54880 |           | x         |   | n                   |
| Eau Claire    | 04/27/2010 | Beverly   | Schmidt    |                               | none                     | Colfax         | WI | 54730 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Marvin    | Sedmark    |                               | 344 Willow Ct.           | Fall Creek     | WI | 54742 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Kenneth   | Shane      |                               | 1014 College Avenue      | Howards Grove  | WI | 53083 | x         |           |   | N                   |
| Eau Claire    | 04/27/2010 | Scott     | Shiverson  | Courte Oneilles Lakes Assn.   | E9536 County Rd N        | Colfax         | WI | 54730 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Aff       | Solte      | Village of Grantsburg         | none                     | St. Paul       | MN | 55113 |           | x         |   | O                   |
| Eau Claire    | 04/27/2010 | Paul      | Stanke     | Cascades Tissue               | 316 S. Brad St           | Grantsburg     | WI | 54840 | x         |           |   |                     |
| Eau Claire    | 04/27/2010 | Charles   | Statz      | NFO, Inc.                     | 1200 Forest St.          | Eau Claire     | WI | 54701 |           | x         |   | O                   |
| Eau Claire    | 04/27/2010 | Ron       | Steinmeyer | Alta Genetics                 | 955 17th St.             | Prairie du Sac | WI | 53578 | x         |           |   |                     |
| Eau Claire    | 04/27/2010 | Troy      | Thom       | Rice Lake Utilities           | 1752 Wuertzburg Rd.      | Athens         | WI | 54411 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Wally     | Trimmer    | Miltrim Farms                 | 320 W. Coleman St.       | Rice Lake      | WI | 54868 | x         |           |   |                     |
| Eau Claire    | 04/27/2010 | Kathryn   | Urnhoefer  | Wis. Cheese Makers Assn.      | 1715 W. Townline Rd      | Athens         | WI | 54411 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Jim       | Wartgow    | Wis. Rural Water Assn.        | 8030 Excelsior Dr        | Madison        | WI | 53717 |           |           | x | O                   |
| Eau Claire    | 04/27/2010 | Dennis    | Wasley     | Min. Pollution Control Agency | 261 9th St. N            | Park Falls     | WI | 54552 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Yvonne    | Weinzirl   | Val-O-Mo Farm, Inc.           | 520 Lafayette Rd. N      | St. Paul       | MN | 55155 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Steve     | Weiss      | MPCA                          | N971 County Rd. D        | Elmwood        | WI | 54740 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Jeremiah  | Wendt      | SEH, Inc.                     | 520 Lafayette Rd. N      | St. Paul       | MN | 55155 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Jill      | Wenthold   | Lac Courte Orielle Found.     | 421 Frenette Dr.         | Chippewa Falls | WI | 54729 | x         |           |   |                     |
| Eau Claire    | 04/27/2010 | Bruce     | Wilson     | Village of Trempealeau        | 188 Cannery Square       | Sun Prairie    | WI | 53590 |           |           | x | O                   |
| Eau Claire    | 04/27/2010 | Travis    | Wolke      | City of Reedsburg PW          | 1455 Juliet Ave.         | St. Paul       | MN | 55105 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Steven    | Zibell     | Owen Farms, Inc.              | 24455 3rd St.            | Trempealeau    | WI | 54661 | x         |           |   | N                   |
| Eau Claire    | 04/27/2010 | Janice    | Zimmerman  | City of Eau Claire            | 134 S. Locust St.        | Reedsburg      | WI | 53959 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Jeff      |            |                               | 3347 Jill Court          | Eau Claire     | WI | 54701 |           |           | x |                     |
| Eau Claire    | 04/27/2010 | Jeff      |            |                               | 410 Forest St.           | Eau Claire     | WI | 54703 | x         |           |   | O                   |
| <b>TOTALS</b> |            | <b>88</b> |            |                               |                          |                |    |       | <b>16</b> | <b>15</b> |   | <b>51 17 (oral)</b> |



WT-25-08 Report to Legislature  
 Attachment 2  
 Attendees at Public Hearings

| Green Bay     | 04/20/2010 | Bruce     | Schmidt      |  |  | W3412 Schmidt Rd<br>N9250 Brant St. John<br>Rd | Brillion      | WI | 54110 |  |  |  | X         |
|---------------|------------|-----------|--------------|--|--|--|---------------|----|-------|--|--|--|-----------|
| Green Bay     | 04/20/2010 | Corey     | Schmidt      |  |  |  | Brillion      | WI | 54110 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Victoria  | Schwahn      | self and family                          |  |  | Brillion      | WI | 54110 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Chris     | Simon        | Trega Foods                              |  |  | Reedsville    | WI | 54230 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Steve     | Simons       | Village of Cleveland                     |  |  | Little Chute  | WI | 54140 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Kelly Ann | Smith        | Clean Water Action Counsel               |  |  | Cleveland     | WI | 53015 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Gordon    | Speirs       | Shiloh Dairy LLC                         |  |  | Green Bay     | WI | 54303 |  |  |  | O,N       |
| Green Bay     | 04/20/2010 | Steph     | Stahl        | Larry Stahl Farm                         |  |  | Greenleaf     | WI | 54126 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Lary      | Stahl        | DA-Ron Dairy                             |  |  | Luxemburg     | WI | 54217 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Gerald    | Stahl        | Stahl Bros. Dairy                        |  |  | Luxemburg     | WI | 54217 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Daniel    | Stephany     | Village of Wrightstown                   |  |  | Luxemburg     | WI | 54217 |  |  |  | X         |
| Green Bay     | 04/20/2010 | David     | Stevenson    | Fox River Fiber                          |  |  | Wrightstown   | WI | 54180 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Herb      | Tauchen      | Tauchen Harmony Valley Inc.              |  |  | De Pere       | WI | 54115 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Marilys   | Tauchen      | Tauchen Harmony Valley Inc.              |  |  | Bonduel       | WI | 54107 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Russ      | Tooley       | Centerville Cares                        |  |  | Bonduel       | WI | 54107 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Mark      | Touslet      | Village of Suring                        |  |  | Cleveland     | WI | 53015 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Shirley   | Van Pelt     | City of Omro                             |  |  | Suring        | WI | 54174 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Mike      | Vanden Eizen | Vanden Eizen                             |  |  | Omro          | WI | 54115 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Jerry     | Walsh        | City of De Pere                          |  |  | De Pere       | WI | 54115 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Jerry     | Weisnicht    | Wolf Treatment Plant Commission          |  |  | De Pere       | WI | 54115 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Cliff     | White        | Sturgeon Bay Utilities                   |  |  | Shawano       | WI | 54166 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Ted       | Winkelman    | City of Oconto                           |  |  | Sturgeon Bay  | WI | 54216 |  |  |  | X         |
| Green Bay     | 04/20/2010 | Steve     | Woodworth    | City of Green Bay                        |  |  | Kewaunee      | WI | 54216 |  |  |  | X         |
| <b>TOTALS</b> |            |           | <b>75</b>    |  |  |  | Oconto        |    |       |  |  |  | <b>10</b> |
| Oconomowoc    | 04/21/2010 | Susan     | Anthony      | Milwaukee Metropolitan Sewerage District |  |  | Milwaukee     | WI | 53202 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Don       | Baumann      | Hustiford Utilities                      |  |  | Hustiford     | WI | 53034 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | David     | Botts        | City of Beloit                           |  |  | Beloit        | WI | 53511 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Brent     | Brown        | City of Beloit                           |  |  | Milwaukee     | WI | 53214 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Jon       | Butt         | City of Fort Atkinson                    |  |  | West Allis    | WI | 53214 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Paul      | Christensen  | City of Fort Atkinson                    |  |  | Fort Atkinson | WI | 53538 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Ron       | Clish        | Fox River Water Pollution Control Center |  |  | Cedarburg     | WI | 53012 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Ron       | Eifler       | Clark Dietz, Inc                         |  |  | Brookfield    | WI | 53066 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Jim       | Engelhardt   | Grande Cheese                            |  |  | Kenosha       | WI | 53144 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Dave      | Feske        | General Engineering Co.                  |  |  | Brownsville   | WI | 53006 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Jerry     | Foellmi      | City of Watertown WWTP                   |  |  | Portage       | WI | 53901 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Kevin     | Fraher       | City of Brookfield                       |  |  | Water town    | WI | 53094 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Thomas    | Grisa        | Wis. Liquid Waste Carriers Assoc         |  |  | Brookfield    | WI | 53005 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Ann       | Gryphan      | Allenton Sanitary District               |  |  | Madison       | WI | 53703 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Tom       | Gureck       | Suputo Cheese USA, Inc.                  |  |  | Allenton      | WI | 53002 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Debra     | Guzman       | Racine Wastewater Utility                |  |  | Lena          | WI | 54139 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Keith     | Haas         | Village of Slinger                       |  |  | Racine        | WI | 53403 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | James     | Haggerty     | Dairy Business Assoc of Wis              |  |  | Slinger       | WI | 53086 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | David     | Jelinski     | Ashippun Sanitary District               |  |  | Madison       | WI | 53703 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Paul      | Joubert      | AECOM                                    |  |  | Hartland      | WI | 53029 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Don       | Kehl         |  |  |  | Ashippun      | WI | 53003 |  |  |  | X         |
| Oconomowoc    | 04/21/2010 | Jay       | Kemp         |  |  |  | Madison       | WI | 53705 |  |  |  | X         |

WT-25-08 Report to Legislature  
 Attachment 2  
 Attendees at Public Hearings

| Oconomowoc    | 04/21/2010 | James Kerler      | Environmental Law and Policy Center | 369 Prospect St.<br>not provided | Lake Mills  | WI | 53551 | X         |           | O                   |
|---------------|------------|-------------------|-------------------------------------|----------------------------------|-------------|----|-------|-----------|-----------|---------------------|
| Oconomowoc    | 04/21/2010 | Brad Klein        | SEWRPC                              |                                  | Waukesha    | WI | 53187 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Laura Kleiti      | Village of Lomira                   | 549 Church St.                   | Lomira      | WI | 53048 |           | X         |                     |
| Oconomowoc    | 04/21/2010 | Jeremy Klug       | City of Sun Prairie                 | 300 East Main St.                | Sun Prairie | WI | 53590 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | John Krug         | City of Sun Prairie                 | N 3678 Will Rd                   | Jefferson   | WI | 53549 | X         |           | N                   |
| Oconomowoc    | 04/21/2010 | Pamela Kutz       | City of Watertown                   | 800 Hoffmann Drive, Box          | Watertown   | WI | 53094 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Paul Lange        | Wis. Dairy Products Assn            | 8383 Greenway Blvd               | Middleton   | WI | 53562 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Brad Legreid      | City of Janesville                  | 123 E. Delavan Drive             | Janesville  | WI | 53546 | X         |           | O,N                 |
| Oconomowoc    | 04/21/2010 | Dan Lynch         | City of Janesville                  | 404 E. Lake St.                  | Horicon     | WI | 53032 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | David Magnussen   | Grande Cheese                       | Dairy Road                       | Brownsville | WI | 53006 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Geoff Marks       | Ruekert - Mielke                    | 640 Glenview Ave                 | Oconomowoc  | WI | 53066 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | William Mielke    | Hustiford Wastewater                | PO Box 295                       | Hustiford   | WI | 53034 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Barry Moder       | Village of Slinger                  | 300 Slinger Rd.                  | Slinger     | WI | 53086 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Greg Moser        | W 233 N2080 Ridgeview Parkway       |                                  |             | WI | 53188 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Douglas Nelson    | Grande Cheese                       | 1115 Golf Vu Dr.                 | Fond du Lac | WI | 54935 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Mike Nelson       | Ashippun Sanitary District          | P. O. Box 28                     | Ashippun    | WI | 53003 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Doug Nelson       | Town of Norway Sanitary District #1 | 3311 Weeden Creek Rd             | Sheboygan   | WI | 53083 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | P. J. Nolan       | Wis. Crop Production Assoc.         | 6419 Iles Park Rd                | Wind Lake   | WI | 53185 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Rob Poehrelt      | City of Whitewater                  | 2317 International Lane,         | Madison     | WI | 53704 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Tim Reel          | Village of Brandon                  | 312 W. Whitewater St             | Whitewater  | WI | 53190 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Richard Roemong   | Village of Bayside                  | 307 S. Center St. PO Box         | Brandon     | WI | 53919 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Veronica Rudychev | Midwest Environmental Associates    | 9075 North Regent Rd             | Bayside     | WI | 53217 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Jamie Saul        |                                     |                                  |             | WI |       | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Sue Schallig      |                                     | 19565 Cromwell Ct. West          | Brookfield  | WI |       | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Ron Schallig      |                                     | 19565 Cromwell Ct. West          | Brookfield  | WI | 53045 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Dale Squier       |                                     | 1305 Roseland Dr                 | Kewauskum   | WI | 53040 | X         |           | O,N                 |
| Oconomowoc    | 04/21/2010 | Tom Steinbach     | City of Oconomowoc                  | 900 S. Worthington St.           | Oconomowoc  | WI | 53066 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Mark Surwillo     | Heart of Valley MSD                 | 801 Thilmany                     | Kaukauna    | WI | 54130 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Dave Taylor       | not identified, but MMSD            | 1610 Moorland Rd.                | Madison     | WI | 53713 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Todd Tessmann     | Hustiford Utilities                 | 201 S. Lake St. PO Box           | Hustiford   | WI | 53034 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Diane Thourne     | Crispell-Snyder, Inc.               | 700 Geneva Parkway, P.O.         | Lake Geneva | WI | 53147 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Frank Tiefert     | Applied Technologies, Inc.          | 16815 W. Wisconsin Ave           | Brookfield  | WI | 53005 | X         |           | O                   |
| Oconomowoc    | 04/21/2010 | Dennis Uecker     | Village of Hustiford                | 511 Island View Circle           | Hustiford   | WI | 53034 | X         |           | O                   |
| <b>TOTALS</b> |            | <b>56</b>         |                                     |                                  |             |    |       | <b>17</b> | <b>12</b> | <b>24,24 (oral)</b> |



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

The Wisconsin Natural Resources Board proposes an order to **amend** ch. NR 217 (title), NR 217.01, 217.02 and 217.03; to **repeal and recreate** NR 102.06; and to **create** NR 217 subchs. I (title), II (title), and III (title), NR 217.10, 217.11, 217.12, 217.13, 217.14, 217.15, 217.16, 217.17, 217.18 and 217.19 relating to phosphorus water quality standards criteria and limitations and effluent standards.

WT-25-08

Analysis Prepared by Department of Natural Resources

**1. Statutes Interpreted:** Sections 281.15, 283.11, 283.13 (5), 283.15, 283.31, 283.55, 283.84

**2. Statutory Authority:** Sections 227.11 (2) (a), 281.15, 283.001 (2), 283.13 (5), 283.15, 283.31, 283.35, 283.37

**3. Explanation of agency authority:** Section 227.11 (2) (a), Stats., expressly confers rulemaking authority on the department to promulgate rules interpreting any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute. The department considers the proposed rules necessary to implement the pollution abatement permit program established in ch. 283, Stats. The phosphorus water quality standard included in the proposed rules is required pursuant to s. 281.15, Stats., which directs the department to promulgate water quality standards for state waters. Section 283.13 (5), Stats., gives the department the authority to establish water quality based effluent limitations based on applicable water quality standards and to require compliance with those limitations consistent with a schedule of compliance or state or federal law. Section 283.15, Stats., provides authority to establish rules for variances to water quality standards, s. 283.31, Stats., provides authority to establish permit terms and conditions for water pollutant discharge elimination system permits, and s. 283.37, Stats., gives the department authority to require the submittal of information as part of a permit application.

**4. Related statute or rule:** Section 283.11 (3) (am), Stats., and chs. NR 106 and 200

**5. Plain language analysis:**

The proposed rule has two parts. The first is a set of phosphorus water quality standards criteria for rivers, streams, various types of lakes, reservoirs and Great Lakes. The second is procedures for determining and incorporating phosphorus water quality based effluent limitations into Wisconsin Discharge Pollutant Elimination System (WPDES) permits under ch. 283, Stats. Pursuant to 40 CFR 131.11, states are required to adopt water quality standards criteria that are protective of the designated uses of surface waters. Pursuant to section 303 (c) (4) of the Clean Water Act, US EPA may step in and promulgate the criteria for the state, if the state does not. Development of point source permit procedures is required as part of the state's point source permit delegation agreement. US EPA approval of state water quality criteria is required under 40 CFR ss. 131.5, 131.6 and 131.21.



Phosphorus Water Quality Standards Criteria

The proposed rule establishes phosphorus water quality criteria of 100 ug/L (parts per billion) for rivers specifically identified in the rule and of 75 ug/L for smaller streams and rivers. No criteria are proposed at this time for ephemeral streams or streams identified in ch. NR 104, as limited aquatic life waters. Both of the criteria are intended to prevent in-stream algae and other plant growth to the extent that is detrimental to fish and aquatic life. For example, extensive algae or macrophyte (large plants growing on the beds of streams) consume oxygen during the night to the extent that may leave too little oxygen for certain fish species and for certain aquatic insects. About half of Wisconsin's rivers and streams meet the proposed criteria.

For lakes and reservoirs, the proposed rule has a suite of criteria for five different types of lake ranging from 15 ug/L for lakes supporting a coldwater fishery, such as lake trout or cisco in its bottom waters, to 40 ug/L for shallow drainage lakes and reservoirs. The criteria are intended to prevent or minimize nuisance algal blooms; prevent shifts in plant species in shallow lakes; maintain adequate dissolved oxygen in the bottom of "two-story" lakes with a warmwater fishery in top waters and coldwater fisheries in bottom waters; and to maintain fisheries. "Toxic" algae concerns may also be addressed. For millponds and similar impoundments, the upstream river or stream criteria would apply. More than half of Wisconsin's lakes meet the proposed criteria with the percent varying by lake type. No criteria are proposed at this time for marsh lakes and other wetlands since they will be part of future wetlands nutrient criteria adoption.

For the Great Lakes, phosphorus criteria are proposed for the open waters of Lake Superior (5 ug/L), the open waters of Lake Michigan (7 ug/L) and the nearshore waters of Lake Michigan (7 ug/L). Presently, for the open waters both Lake Michigan and Lake Superior are meeting the criteria. For the nearshore waters of Lake Michigan, the zone from the beaches to a depth of 10 meters, where there are concerns with the Cladophora algal mats forming on beaches, the criteria may be exceeded in some locations.

Below is a table showing the proposed phosphorus water quality standards criteria by type of water body. The specific water body types are defined in the proposed rules, and there are some exclusions based on size or flow conditions.

| <b>Proposed Phosphorus Criteria by Type of Water Body</b> | <b>Total Phosphorus in ug/L</b>   |
|---|-----------------------------------|
| Listed rivers   | 100                               |
| All other streams   | 75                                |
| Stratified reservoirs                                     | 30                                |
| Non-stratified reservoirs                                 | 40                                |
| Stratified "two-story" fishery lakes                      | 15                                |
| Stratified drainage lakes                                 | 30                                |
| Non-stratified (shallow) drainage lakes                   | 40                                |
| Stratified seepage lakes                                  | 20                                |
| Non-stratified (shallow) lakes                            | 40                                |
| Impoundments  | Same as inflowing river or stream |
| Lake Michigan open and nearshore waters                   | 7                                 |
| Lake Superior open and nearshore waters                   | 5                                 |

## WPDES Effluent Standards and Limitations

The current regulations for phosphorus establish specific procedures for including technology based limitations and standards in WPDES permits (existing ch. NR 217). There is also an existing rule (s. NR 102.06) that generally states the department may establish water quality based limits for phosphorus in permits on a case-by-case basis using an evaluation of phosphorus sources in a watershed, but this rule is being repealed and replaced with a proposed new subchapter in ch. NR 217 that includes detailed procedures for establishing water quality effluent limitations for phosphorus.

Specifically, there are provisions for determining when a water quality based effluent limitation is needed in a WPDES permit; equations and procedures for calculating effluent limits based on different types of waters and stream flow assumptions; and provisions for expressing permit compliance averaging periods, such as a monthly average. The rule requires concentration limits, as commonly used in permits. However, it also specifies where and how mass limits are required, such as for discharges to impaired waters, where there is a downstream lake and where there is a downstream outstanding or exceptional resource water. The rule also addresses the relationship and procedures for including various types of phosphorus limits in permits such as a phosphorus limit based on a total maximum daily load, a technology based phosphorus limit and a water quality based phosphorus limit calculated under the new procedures in ch. NR 217.

The proposed rule allows the department to include compliance schedules in permits. The compliance schedule provisions specify factors the department may consider when establishing the length of a compliance schedule. In addition to compliance schedules, the rule includes a watershed adaptive management option where interim limits may be phased in, if phosphorus concentrations improve in the receiving water.

The proposed rule also includes provisions for processing variances to phosphorus water quality based effluent limitations for stabilization pond and lagoon systems. The inclusion of these procedures for stabilization pond and lagoon systems should not be interpreted to mean that these are the only types of systems that may obtain a variance. There are standard procedures for variances in statutory language and other administrative codes.

### **6. Summary of, and comparison with, existing or proposed federal regulation:**

The proposed phosphorus criteria for streams of 75 ug/L and rivers of 100 ug/L are similar to US EPA's guidance values for the southern half of Wisconsin. US EPA recommended 70 ug/L of phosphorus for both rivers and streams in the southwestern driftless area of the state and 80 ug/L of phosphorus for both rivers and streams in the remainder of the southern half of the state. US EPA, did however, recommend a criterion of 29 ug/L for a band or area stretching west to east through the middle of the state and 10 ug/L for the forested northern part of the state. All of the US EPA guidance numbers are based on the 25th percentile of available data from a number of states and do not represent a cause-effect situation. We could not find concentrations as low as 10 ug/L even for pristine conditions in most of the forested northern portion of Wisconsin.

For lakes, the proposed criteria that range from 15 to 40 ug/L based on the type of lake are different than US EPA's guidance values that range from 9.7 ug/L for northern lakes to 36 ug/L for driftless area lakes. US EPA's guidance values are based on data from multiple states and represent the 25th percentile of available data. They do not differentiate based on the type of lake.

The proposed criteria for Lake Michigan and Lake Superior are the same as the values derived for the federal Great Lakes Water Quality Agreement.

The proposed WPDES permit procedures, including water quality based effluent limitations, are based on general US EPA regulations and guidelines.

#### **7. Comparison with similar rules in adjacent states:**

All states, including adjacent states, are required by US EPA to promulgate nutrient water quality standards criteria under US EPA's Clean Water Act authority. In addition, all states delegated National Pollutant Discharge Elimination System permit authority by US EPA, including all adjacent states, are required to issue point source permits that will meet water quality standards.

To date, Minnesota has promulgated phosphorus criteria for lakes which are very similar to what is proposed in this rule. Minnesota is now in the process of developing proposed criteria for rivers and streams. Illinois has had phosphorus criteria in its water quality standards for some years for lakes and Lake Michigan; and it is in the process of developing phosphorus criteria for streams and rivers. Michigan and Iowa are developing criteria, but to date have not publicly proposed criteria. None of the adjacent states or Wisconsin has proposed criteria for nitrogen, except for ammonia.

All adjacent states have provisions for developing water quality based effluent limits, but none to date have proposed rules that specifically deal with the issues uniquely related to phosphorus.

#### **8. Summary of factual data and analytical methodologies used and how any related findings support the regulatory approach chosen:**

The proposed water quality standards phosphorus criteria for streams and rivers are based on results of a number of Wisconsin studies aimed at determining when biotic effects occur and how these effects relate to protection of designated uses. The primary studies were jointly conducted by department and US Geological Survey (USGS) staff and their results are reported in "Nutrient Concentrations and Their Relations to the Biotic Integrity of Wadeable Streams in Wisconsin", USGS Professional Paper 1722, by Robertson, Graczyk, Garrison, Wang, LaLiberte and Bannerman, 2006; and "Nutrient Concentrations and Their Relations to the Biotic Integrity of Nonwadeable Rivers in Wisconsin", USGS Professional Paper 1754, by Robertson, Weigel and Graczyk, 2008. These studies identified a suite of breakpoints or thresholds for effects of phosphorus on algae, aquatic insects and fish. Based on discussions involving a number of experts in the scientific field, the department used an averaging method of the suite of breakpoints to derive the proposed criteria. These proposed criteria were compared to department's studies of trout streams in southwestern Wisconsin, the early 1980's department's study of phosphorus in streams and studies cited in US EPA's "Nutrient Criteria Technical Guidance Manual: Rivers and Streams", EPA-822-B-00-002, 2000.

The proposed water quality standards phosphorus criteria for lakes and reservoirs are based on methods commonly used for decades in lake management in Wisconsin and adjacent states. Specifically, for most types of lakes, the proposed criteria are based on limiting the risk of nuisance algae conditions (20 ug/L chlorophyll a) to no more than 5 percent of the time (e.g. less than one week per year from June through September) using work by Walmsley (Journal of Environmental Quality, 13:97-104, 1988) and Heiskary and Wilson ("Minnesota Lake Water Quality Assessment Report: Developing Nutrient Criteria", Minnesota Pollution Control Agency, September 2005). These concentrations were also determined to be sufficient to protect sport fisheries in lakes again using information from Heiskary and Wilson ("Minnesota Lake Water Quality Assessment Report: Developing Nutrient Criteria", Minnesota Pollution Control Agency, September 2005). For the relatively few lakes that support a cold water fishery in the lower waters, the department's objective was to maintain 6 mg/L for dissolved oxygen in the lower waters. To determine the appropriate phosphorus concentrations, the department examined sediment cores and current water concentrations to determine undisturbed conditions. The proposed criteria were compared to literature information summarized in US EPA's "Nutrient Criteria Technical Guidance Manual: Lakes and Reservoirs", EPA-822-B-00-001, 2000.

For development of the water quality based effluent limitation procedures for permits, the department reviewed existing state and federal regulations and guidance for the point source discharge permit programs, consulted with US EPA representatives, and received input from a technical advisory committee that met several times in 2008 through 2009. The technical advisory committee was comprised of representatives of municipal and industrial wastewater dischargers, municipal storm water dischargers, agricultural interests, water user groups and environmental groups. Staff from US EPA and USGS also attended committee meetings as advisories to the committee and the department.

## **9. Analysis and supporting documents used to determine fiscal estimate and effect on small business**

The department's cost estimate for municipal and industrial wastewater treatment plant compliance contains a range of costs based on projected implementation of the requirements of subchapter III of ch. NR 217. The range is appropriate given the number of flexibility elements in the rule, such as the watershed adaptive management option, use of total maximum daily load allocations, economic variances and pollutant trading. The upper end of the range estimate of \$1.6 billion anticipates that 163 municipal and 43 wastewater treatment plants will require filtration or other tertiary treatment at a substantial capital expenditure and increased operation and maintenance costs. Not every facility in the state will have stringent water quality based effluent limits and many will not see any change in their current phosphorus limits. The number of facilities anticipates that small communities and industries with lagoon or stabilization pond systems or mechanical systems will receive variances due to widespread adverse social and economic impacts. The number of industrial facilities includes only those that discharge to surface waters and does not include those that discharge phosphorus to municipal wastewater treatment plants, such as some food processing plants. The cost estimates for municipalities are based on cost estimating charts in the US EPA's "Municipal Nutrient Removal Technology Reference Document, September 2008; adjusted upward about 40 percent for current construction costs, northern climate conditions and

other factors. The cost estimates for industries are based on information from various sources. The upper end of the range estimate does not include site-specific costs, such as land purchase to enlarge the facility, which could substantially increase the costs for an individual facility. Also, the upper end of the range estimate does not take into account the subsidy value (about 20%) to municipalities receiving loans from the state's Clean Water Fund which would lower the statewide cost estimate.

Costs may be less than those estimated for the upper end of the range through implementation of total maximum daily load allocations, the watershed adaptive management option and/or pollutant trading. Each of these flexibility approaches has the potential to bring about control of phosphorus from nonpoint sources and urban storm water sources and lessen the need for stringent wastewater treatment plant effluent limits. Emerging technology, starting to be used in eastern states, may also reduce costs for tertiary treatment for phosphorus. These reduced costs were not quantified or factored into the upper end of the range cost estimates.

The lower end of the range anticipates that no wastewater treatment plant will need to go beyond phosphorus removal technology that is commonly used in Wisconsin. Many Wisconsin wastewater treatment plants are discharging phosphorus at concentrations far below their effluent limit with some discharging at concentrations less than half of their limit.

There could be both direct and indirect economic impacts on small businesses. To assess the direct impacts, the department initially identified cheese and other dairy operations that discharge wastewater containing phosphorus to lakes and streams as small businesses potentially impacted by the proposed rules. With the assistance of the Wisconsin Cheese Makers, 11 businesses were identified for analysis. All 11 are likely to have more than \$5 million in annual revenue, but may have less than 25 employees. Of the 11, six apply wastes to the land through a variety of methods. The other six discharge their wastes to municipal wastewater treatment plants. Some, however, may discharge non-contact cooling water which may or may not have phosphorus added to the water by the industry or a municipality. Those small businesses that discharge their wastes to municipal wastewater treatment plants or farmers that sell their products to food processing industries may have an indirect economic impact that cannot be quantified at this time since the costs are specific to the facility.

Based on this analysis, the department concluded that there are few small businesses that directly discharge of wastewater containing phosphorus to lakes or streams. If there is an impact, it would likely be an indirect fiscal impact on those small businesses that discharge their wastes to a municipal wastewater treatment facility. If the municipal wastewater treatment plant is required to further remove phosphorus, it is possible that the service fee may increase or the municipality may require some level of pretreatment.

#### **10. Effect on small business:**

The department has determined the rule may have an indirect impact on limited number of small businesses, and that impact may be lessened through existing variance procedures. Most of the fiscal impacts from the proposed rules will affect municipalities and industries (with phosphorus discharges to surface waters) that aren't considered small businesses. However, there may be an

effect on small businesses that discharge to municipal wastewater treatment plants; but this impact is very difficult to estimate. Secondary indirect impacts on farmers and other suppliers to small industries are even more difficult to estimate.

As mentioned above, small cheese factories may be the best example of a small business. For those meeting the definition of a small business, many of the facilities land apply all or the majority of their wastewater, and therefore will not be impacted by these rules. If there are any businesses that discharge wastes directly to surface waters that meet the definition of a small business, they may apply for a variance if compliance with water quality based effluent limits for phosphorus would cause significant economic hardship. The proposed rules do not provide for less stringent reporting, longer compliance schedules or completed exemptions for small businesses with phosphorus discharges to surface waters because it would not be allowed under federal regulations or state statutes. There is, however, a variance procedure that is allowed under both state and federal law for all point sources that qualify. Reporting and record keeping requirements are established through permit terms and conditions.

**11. Agency contact person:**

Jim Baumann, P.O. Box 7921, Madison, WI 53707; telephone number 608/266-9277; e-mail address: james.baumann@wisconsin.gov.

---

SECTION 1. NR 102.06 is repealed and recreated to read:

**NR 102.06 Phosphorus.** (1) GENERAL. This section identifies the water quality criteria for total phosphorus that shall be met in surface waters.

(2) DEFINITIONS. In this section:

(a) "Drainage lake" means a lake with an outlet stream that continually flows under average summer conditions based on the past 30 years.

(b) "Ephemeral stream" means a channel or stream that only carries water for a few days during and after a rainfall or snowmelt event and does not exhibit a flow during other periods, and includes, but is not limited to, grassed waterways, grassed swales and areas of channelized flow as defined in s. NR 243.03 (7).

(c) "Mean water residence time" means the amount of time that a volume of water entering a waterbody will reside in that waterbody.

(d) "Nearshore waters" means all waters of Lake Michigan or Lake Superior within the jurisdiction of the State of Wisconsin in the zone extending from the shore to a depth of 10 meters, based on the long-term mean elevation for Lake Superior of 183.4 meters (601.7 feet) and for Lake Michigan of 176.5 meters (579.0 feet).

(e) "Open waters" mean all waters of Lake Michigan or Lake Superior within the jurisdiction of the State of Wisconsin with depths greater than nearshore waters.

(f) "Reservoir" means a waterbody with a constructed outlet structure intended to impound water and raise the depth of the water by more than two times relative to the conditions prior to construction of the dam, and that has a mean water residence time of 14 days or more under summer mean flow conditions using information collected over or derived for a 30 year period.

(g) "Stratified lake or reservoir" means a lake or reservoir where either of the following equations results in a value of greater than 3.8:

$$\frac{\text{Maximum Depth (meters)} - 0.1}{\text{Log}_{10}\text{Lake Area (hectares)}}$$

$$\frac{\text{Maximum Depth (feet)} * 0.305 - 0.1}{\text{Log}_{10}\text{Lake Area (acres)} * 0.405}$$

$$\frac{\text{Maximum Depth (feet)} * 0.305 - 0.1}{\text{Log}_{10}\text{Lake Area (acres)} * 0.405}$$

$$\text{Log}_{10}\text{Lake Area (acres)} * 0.405$$

(h) "Seepage lake" means a lake that does not have an outlet stream that continually flows under average summer conditions based on the past 30 years.

(i) "Stratified two-story fishery lake" means a stratified lake which has supported a cold water fishery in its lower depths within the last 50 years.

(j) "Total phosphorus" means all of the phosphorus in a water sample analyzed using the methods identified under the provisions of s. NR 219.04 (1).

(3) STREAMS AND RIVERS. To protect the fish and aquatic life uses established in s. NR 102.04 (3) on rivers and streams that generally exhibit unidirectional flow, total phosphorus criteria are established as follows:

(a) A total phosphorus criterion of 100 ug/L is established for the following rivers or other unidirectional flowing waters:

1. Apple River from the outlet of the Apple River Flowage in Amery to the St. Croix River, excluding Black Brook Flowage.
2. Bad River from confluence with the Marengo River within the Bad River Indian Reservation downstream to Lake Superior.
3. Baraboo River from highway 58 in La Valle to the Wisconsin River.
4. Bark River from confluence with Scuppernong River near Hebron to the Rock River.
5. Black River from confluence with Cunningham Creek near Neillsville to Mississippi River, excluding Lake Arbutus.
6. Brule River from state highway 55 in Forest County downstream to Menominee River.
7. Buffalo River from confluence with Harvey Creek near Mondovi to Mississippi River.
8. Chippewa River from Lake Chippewa in Sawyer County to Mississippi River, excluding Holcombe Flowage, Cornell Flowage, Old Abe Lake, Lake Wissota and Dells Pond.
9. Crawfish River from confluence with Beaver Dam River to Rock River.
10. East Branch Pecatonica River from confluence with Apple Branch Creek near Argyle to Pecatonica River.
11. Eau Claire River from confluence with Bridge Creek near Augusta to Chippewa River, excluding Altoona Lake.
12. Embarrass River from confluence with Pigeon River near Clintonville to Wolf River.



13. Flambeau River from outlet of Turtle-Flambeau Flowage in Iron County to Chippewa River, excluding Pixley Flowage, Crowley Flowage and Dairyland Flowage.

14. Fox River from outlet of Lake Puckaway near Princeton to Green Bay, excluding Lake Butte des Morts and Lake Winnebago.

15. Fox River from confluence with Mukwonago River near Mukwonago to state line, excluding Tichigan Lake.

16. Grant River from confluence with Rattlesnake Creek near Beetown to Mississippi River.

17. Jump River from confluence with the North Fork and the South Fork of the Jump River in Price County to Holcombe Flowage.

18. Kickapoo River from confluence with Weister Creek near La Farge to Wisconsin River.

19. Kinnickinnic River from confluence with Wilson Park Creek in Milwaukee to Milwaukee River.

20. La Crosse River from confluence with Fish Creek near Bangor to Mississippi River, excluding Neshonoc Lake.

21. Lemonweir River from outlet of New Lisbon Lake in New Lisbon to Wisconsin River, excluding Decorah Lake.

22. Little Wolf River from confluence with South Branch Little Wolf River near Royalton to Wolf River.

23. Manitowoc River from confluence of North Branch and South Branch Manitowoc River to the opening at the end of the piers at Lake Michigan.

24. Menominee River from confluence with Brule River to the opening at the end of the piers at Green Bay.

25. Menomonee River from confluence with Little Menomonee River to Milwaukee River.

26. Milwaukee River from confluence with Cedar Creek downstream to the openings of the breakwaters at Lake Michigan.

27. Mississippi River main channels and side channels.

28. Namekagon River from outlet of Trego Lake near Trego to St. Croix River.

29. Oconto River from confluence with Peshtigo Brook to the opening at the end of the piers at Green Bay.

30. Pecatonica River from confluence with Vinegar Branch near Darlington to state line.

31. Pelican River from confluence with Slaughterhouse Creek near Rhinelander to Wisconsin River.

32. Peshtigo River from confluence with Brandywine Creek downstream to Green Bay, excluding Cauldron Falls Flowage and High Falls Flowage.

33. Pine River from confluence with Popple River in Florence County to Menominee River, excluding Pine River Flowage.

34. Red Cedar River from confluence with Brill River to Chippewa River, excluding Rice Lake, Tainter Lake and Lake Menomin.

35. Rock River from outlet of Sinissippi Lake downstream to the state line, excluding Lake Koshkonong.

36. St. Croix River from confluence with Namekagon River downstream to Mississippi River, excluding Lake St. Croix near Hudson.

37. St. Louis River from state line to the opening between Minnesota Point and Wisconsin Point at Lake Superior.

38. Sheboygan River from outlet of Sheboygan Marsh to the opening at the end of the piers at Lake Michigan.

39. South Fork of Flambeau River from state highway 13 near Fifield to Flambeau River.

40. Sugar River from outlet of Albany Lake to state line, excluding Decatur Lake.

41. Tomahawk River from outlet of Willow Reservoir to Lake Nokomis.

42. Trempealeau River from confluence with Pigeon Creek near Whitehall to Mississippi River.

43. White River from outlet of White River Flowage in Ashland County to Bad River.

44. Wisconsin River from the Rhinelander Dam to Mississippi River, excluding Lake Alice, Lake Mohawksin, Alexander Lake, Lake Wausau, Mosinee Flowage, Lake Dubay, Wisconsin River Flowage, Biron Flowage, Petenwell Flowage, Castle Rock Flowage and Lake Wisconsin.

45. Wolf River from confluence with Hunting Creek in Langlade County to Lake Poygan.

46. Yahara River from outlet of Lake Kegonsa to Rock River.

(b) Except as provided in subs. (6) and (7), all other surface waters generally exhibiting unidirectional flow that are not listed in par. (a) are considered streams and shall meet a total phosphorus criterion of 75 ug/L.

(4) RESERVOIRS AND LAKES. Except as provided in sub. (1), to protect fish and aquatic life uses established in s. NR 102.04 (3) and recreational uses established in s. NR 102.04 (5), total phosphorus criteria are established for reservoirs and lakes, as follows:

(a) For stratified reservoirs, total phosphorus criterion is 30 ug/L. For reservoirs that are not stratified, total phosphorus criterion is 40 ug/L.

(b) For the following lakes that do not exhibit unidirectional flow, the following total phosphorus criteria are established:

1. For stratified, two-story fishery lakes, 15 ug/L.
2. For lakes that are both drainage and stratified lakes, 30 ug/L.
3. For lakes that are drainage lakes, but are not stratified lakes, 40 ug/L.
4. For lakes that are both seepage and stratified lakes, 20 ug/L.
5. For lakes that are seepage lakes, but are not stratified lakes, 40 ug/L.

(c) Waters impounded on rivers or streams that don't meet the definition of reservoir in this section shall meet the river and stream criterion in sub. (3) that applies to the primary stream or river entering the impounded water.

(5) GREAT LAKES. To protect fish and aquatic life uses established in s. NR 102.04 (3) and recreational uses established in s. NR 102.04 (5) on the Great Lakes, total phosphorus criteria are established as follows:

(a) For both open and nearshore waters of Lake Superior, 5 ug/L.

(b) For both open and nearshore waters of Lake Michigan, excluding waters identified in par. (c), 7 ug/L.

(c) For the portion of Green Bay from the mouth of the Fox River to a line from Long Tail Point to Point au Sable, the water clarity and other phosphorus-related conditions that are suitable for support of a diverse biological community, including a robust and sustainable area of submersed aquatic vegetation in shallow water areas.

(6) EXCLUSIONS. The following waters are excluded from subs. (3) (b), (4) and (5):

- (a) Ephemeral streams.
- (b) Lakes and reservoirs of less than 5 acres in surface area.
- (c) Wetlands, including bogs.
- (d) Waters identified as limited aquatic life waters in ch. NR 104. Limited aquatic life waters are those subject to the criteria in s. NR 104.02 (3) (b) (2).

(7) SITE-SPECIFIC CRITERIA. (a) *General*. A criterion contained within this section may be modified by rule for a specific surface water segment or waterbody. A site-specific criterion may be adopted in place of the generally applicable criteria in this section where site-specific data and analysis using scientifically defensible methods and sound scientific rationale demonstrate a different criterion is protective of the designated use of the specific surface water segment or waterbody.

**Note:** Reservoirs, two-story fishery lakes and water bodies with high natural background phosphorus concentrations are the most appropriate water bodies for site-specific criteria.

**Note:** When placing a water body on the 303 (d) list as impaired for phosphorus, the department considers factors such as frequency and duration of criterion exceedances, the time of year of the exceedance and the magnitude of each exceedance above the applicable criterion. The department may also choose to consider other factors such as the concentration of suspended algae and floating plants; density of benthic algae; macrophyte density; minimum and daily change in dissolved oxygen levels due to diurnal swings; water clarity; and natural background phosphorus concentrations. The 303 (d) list is a list of impaired waters established by the department and approved by US EPA pursuant to 33 USC 1313 (d) (1) (A) and 40 CFR 130.7. Information on frequency and duration is contained in the department's impaired waters listing guidance, "Wisconsin Consolidated Assessment and Listing Methodology."

SECTION 2. Chapter NR 217 (title) is amended to read:

**CHAPTER NR 217 (title) EFFLUENT STANDARDS AND LIMITATIONS FOR  
PHOSPHORUS**

SECTION 3. NR 217 Subchapter I (title) to precede s. NR 217.01 is created to read:

**SUBCHAPTER I (title) - GENERAL**

SECTION 4. NR 217.01 is amended to read:

**NR 217.01 Purpose.** The purpose of this chapter is to reduce the amount of ~~pollutants~~ phosphorus discharged to surface waters by establishing effluent standards and limitations for ~~pollutants~~, including water quality based effluent limitations, for phosphorus in effluent discharged to surface waters of the state. Effluent standards and limitations are ~~adopted~~ developed pursuant to ch. 283, Stats.

SECTION 5. NR 217 Subchapter II (title) to follow s. NR 217.01 is created to read:

**SUBCHAPTER II (title) - PHOSPHORUS EFFLUENT STANDARD AND  
LIMITATIONS**

SECTION 6. NR 217.02 is amended to read:

**NR 217.02 Applicability.** This ~~chapter~~ subchapter is applicable to point sources which discharge ~~wastewater~~ phosphorus to the surface waters of the state.

SECTION 7. NR 217.03 is amended to read:

**NR 217.03 Definitions.** Definitions of terms and the meaning of abbreviations used in this ~~chapter~~ subchapter are as defined in ~~chs. NR 102, 106, 205, 210 and 243~~ ss. NR 102.03, 106.03, 205.03, 210.03 and 243.03. In addition: "effluent standard" means any requirement for a ~~specific pollutant applicable to a category or class of point sources which are more stringent than the requirements under s. 283.13 (1) to (4), Stats.~~ phosphorus established pursuant to s. 283.11 (3), Stats., and this subchapter.

SECTION 8. NR 217 Subchapter III (title) to follow s. NR 217.04 is created to read:

**SUBCHAPTER III (title) - WATER QUALITY BASED EFFLUENT LIMITATIONS  
FOR PHOSPHORUS**

SECTION 9. NR 217.10 is created to read:

**NR 217.10 Applicability.** This subchapter applies to discharges of phosphorus to surface waters of the state from the following point sources:

- (1) Publicly and privately owned wastewater facilities or treatment works;
- (2) Noncontact cooling water discharges which contain phosphorus unless 100 percent of the phosphorus in the discharge originates from the receiving water as intake water;
- (3) Concentrated animal feeding operations that discharge manure or process wastewater from the production area through alternative treatment facilities under s. NR 243.13; and
- (4) A facility or site that is regulated under ch. NR 216 only where the department has determined that compliance with the standards in chs. 151 and 216 are not sufficient to meet phosphorus criteria in s. NR 102.06.

**Note:** There may be other point sources that are not subject to the procedures in this subchapter, but which are be subject to s. 283.13 (5), Stats. or procedures in other rules (e.g. ch. NR 243 requirements for concentrated animal feeding operations).

SECTION 10. NR 217.11 is created to read:

**NR 217.11 Definitions.** Definitions of terms and the meaning of abbreviations used in this subchapter are as defined in ss. NR 102.03, 106.03, 205.03, 210.03 and 243.03. In addition, for purposes of this subchapter, the following definitions apply:

(1) “303 (d) list” means a list of waters established by the department and approved by US EPA pursuant to 33 USC 1313 (d) (1) (A) and 40 CFR 130.7.

(2) “Adaptive management” means the use of monitoring data and other information at the time of permit reissuance to reassess management decisions and permit requirements.

(3) “New discharger” means a point source which was not authorized by a WPDES permit as of the effective date of this rule . . . [legislative reference bureau inserts date]. A new discharger includes a relocation of an outfall to a different receiving water.

(4) “Phosphorus impaired water” means a surface water listed on the 303 (d) list that is impaired for phosphorus, nutrients or diurnal swings of dissolved oxygen.

**Note:** A surface water may be impaired and placed on the 303 (d) list for a reason other than phosphorus, nutrients or dissolved oxygen ( e.g. mercury), however the procedures in this subchapter only apply to impairments related to phosphorus, nutrients or diurnal swings of dissolved oxygen.

(5) “Privately owned wastewater facilities or treatment works” means a facility or treatment works owned by a nongovernmental entity that discharges domestic wastewater, commercial wastewater or industrial wastewater or a combination thereof.



(6) "Technology based limitation" means an effluent limitation for phosphorus established pursuant to s. 283.11 (3), Stats., and subch. II or s. 283.13 (2) or (4), Stats.

(7) "Total maximum daily load" or "TMDL" means the amount of pollutants specified as a function of one or more water quality parameters that can be discharged into a water quality limited segment and still ensure attainment of the applicable water quality standard in a watershed.

(8) "US EPA" means the United States Environmental Protection Agency.

(9) "WQBEL" means a water quality based effluent limitation.

SECTION 11. NR 217.12 is created to read:

**NR 217.12 General.** (1) Water quality based effluent limitations for phosphorus shall be included in a permit whenever the department determines:

(a) The discharge from a point source contains phosphorus at concentrations or loadings which will cause, has the reasonable potential to cause or contribute to, an exceedance of the criteria in s. NR 102.06 in either the receiving water or downstream waters; and

(b) The technology based effluent limitation or the alternative treatment technology limitation calculated under s. NR 243.13 is less stringent than necessary to achieve the applicable water quality standard for phosphorus in s. NR 102.06.

(2) If the technology based limitation expressed as a concentration is more stringent than the water quality based effluent limitation expressed as a concentration under s. NR 217.13, then the technology based limit shall be included in the permit, along with any mass limitations calculated under this subchapter as required under s. NR 217.14 (1) and (3).

SECTION 12. NR 217.13 is created to read: