

Chapter NR 205

GENERAL PROVISIONS

NR 205.01	Purpose.
NR 205.02	Applicability.
NR 205.03	Definitions.
NR 205.04	Abbreviations.
NR 205.05	Rainfall events.
NR 205.06	Effluent limitations applicable where pH is monitored continuously.
NR 205.065	Effluent Limitations.

NR 205.066	Permit Conditions.
NR 205.067	Reasonable potential for water quality based effluent limitations.
NR 205.07	General conditions.
NR 205.08	General permits.
NR 205.10	Best management practices.
NR 205.14	Schedules of compliance.

Note: Chapter NR 205 as it existed on September 30, 1984 was repealed and a new chapter was created effective October 1, 1984.

NR 205.01 Purpose. The purpose of this chapter is to set forth the definitions applicable to and abbreviations used in chs. NR 200 to 299 to avoid repetition in those chapters. This chapter also sets forth permit general conditions for all WPDES permits, procedures for establishing permit limits in WPDES permits, effluent limitations applicable to non-POTWs where pH is continuously monitored, and procedures to be used for issuing general WPDES permits.

History: Cr. Register, September, 1984, No. 345, eff. 10-1-84; correction was made under s. 13.93 (2m) (b) 7., Stats., Register, May, 2001, No. 545; CR 17-002: am. Register April 2018 No. 748, eff. 5-1-18.

NR 205.02 Applicability. The provisions of this chapter are applicable to all point source discharges of pollutants, including the land application of sludge.

History: Cr. Register, September, 1984, No. 345, eff. 10-1-84; am. Register, December, 1995, No. 480, eff. 1-1-96.

NR 205.03 Definitions. The following definitions are applicable to terms used in chs. NR 200 to 299 except as they may be superseded by a more specific definition in a particular chapter or section or in any particular issued permit.

(1) “Bioaccumulation” means the uptake and retention of one or more substances in living tissue either by direct uptake or through uptake in the food chain or both.

(2) “Bioassay” means the procedure in which the response of captive aquatic organisms are used to detect or measure the presence or effect of one or more substances, wastes or environmental factors, alone or in combination.

(3) “Biological monitoring” as defined in ch. 283, Stats., means the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical and biological characteristic of the effluent and at appropriate frequencies and locations.

(3m) “Blending” has the meaning specified under s. NR 210.03 (2e).

Note: Section NR 210.03 (2e) reads: “Blending” means the routing of untreated or partially treated wastewater around a biological treatment process, or a portion of a biological treatment process, within a sewage treatment facility. The routing of untreated or partially treated wastewater around a portion of a biological treatment process is considered to be blending only if the entire wastewater flow has not received biological treatment.

(4) “Blowdown” means the minimum discharge of recirculating water necessary to prevent the buildup of materials in the water above the limits of best engineering practice.

(4m) “Building backup” has the meaning specified under s. NR 210.03 (2m).

Note: Section NR 210.03 (2m) reads: “Building backup” means an accumulation of sewage in any public or private building caused by blockage, failure or other hydraulic constraint in the sewage collection system or by blockage or failure of the building sewer or private interceptor main sewer.

(5) “Bypass” means the intentional diversion of waste streams from any portion of a sewage treatment facility or a wastewater

treatment facility. A bypass does not include a building back-up or a combined sewer overflow.

(6) “Chronic toxicity” means the long term effects on aquatic or terrestrial organisms from exposure to a toxic pollutant as determined by whole or partial life-cycle tests.

(6e) “Combined sewer overflow” has the meaning specified under s. NR 210.03 (3h).

Note: Section NR 210.03 (3h) reads: “Combined sewer overflow” means a release of wastewater from a combined sewer system directly into a water of the state or to the land surface.

(6m) “Combined sewer system” has the meaning specified under s. NR 210.03 (3p).

Note: Section NR 210.03 (3p) reads: “Combined sewer system” means a wastewater collection system owned by a municipality that conveys domestic, commercial and industrial wastewater and storm water runoff through a single pipe system to a publicly owned treatment works.

(6s) “Combined sewer treatment facility” has the meaning specified under s. NR 110.03 (7s).

Note: Section NR 110.03 (7s) reads: “Combined sewer treatment facility” means all the structures, pipes and other equipment that constitute the various treatment processes and treatment units employed to reduce pollutants in wastewater from combined sewer systems.

(7) “Commercial domestic establishment” means any establishment which has the capability to collect, treat or dispose of domestic wastes including but not limited to restaurants, country clubs, mobile home parks, motels and hotels.

(8) “Construction” as defined in ch. 283, Stats., means any placement, assembly or installation of facilities or equipment, including contractual obligations to purchase such facilities or equipment, at the premises where such equipment will be used, including preparation work at such premises.

(9) “Contaminated storm water” means a point source discharge of storm water which the department has identified as a significant contributor of pollution.

(9g) “Continuous discharge” means a facility that discharges 24 hours per day on a year-round basis except for temporary shutdowns for maintenance or other similar activities.

(9m) “Controlled diversion” means the routing of untreated or partially treated wastewater around any treatment unit within a sewage or wastewater treatment facility which is then recombined with undiverted wastewater prior to the effluent sampling location and prior to effluent discharge.

Note: Controlled diversions at a sewage treatment facility do not include blending and may occur only in compliance with s. NR 205.07 (1) (v).

(10) “Cooling water” means water which has been used primarily for cooling but which may be contaminated with process waste or airborne material. Examples are the discharge from barometric condensers or the blowdown from cooling towers.

(11) “Department” means the department of natural resources.

(12) “Discharge” as defined in ch. 283, Stats., when used without qualification includes a discharge of any pollutant.

(13) “Discharge of pollutant” as defined in ch. 283, Stats., means any addition of any pollutant to the waters of this state from any point source including the land application of sludge.

(14) “Domestic wastewater” means the type of wastewater normally discharged from plumbing facilities in private dwellings or commercial domestic establishments and includes, but is not limited to, sanitary, bath, laundry, dishwashing, garbage disposal and cleaning wastewaters.

(15) “Effluent limitation” as defined in ch. 283, Stats., means any restriction established by the department, including schedules of compliance, on quantities, rate, and concentrations of chemical, physical, biological and other constituents which are discharged from point sources into waters of the state.

(16) “General permit” means a permit for the discharge of pollutants issued by the department under s. 283.35, Stats.

(17) “Groundwater” means the portion of subsurface water which is within the zone of saturation and includes but is not limited to perched water tables, shallow regional groundwater tables, and aquifers or zones that are seasonally, periodically or permanently saturated.

(18) “Municipality” as defined in ch. 283, Stats., means any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district or any other public entity created under law and having authority to collect, treat or dispose of sewage, industrial wastes or other wastes.

(19) “Municipal wastewater” means the mixture of domestic, process and other wastewater tributary to any given municipal sanitary sewage or treatment system.

(20) “New source” as defined in ch. 283, Stats., means any point source the construction of which commenced after the effective date of applicable effluent limitations or standards of performance.

(21) “Noncontact cooling water” means water used for cooling which does not come into contact with any raw material, intermediate or finished product, or waste and has been used in heat exchangers, air or refrigeration compressors, or other cooling means where contamination with process waste is not normally expected.

(22) “Owner or operator” as defined in ch. 283, Stats., means any person owning or operating a point source of pollution.

(23) “Permit” as defined in ch. 283, Stats., means a permit for the discharge of pollutants issued by the department under ch. 283, Stats.

(24) “Permittee” means a municipality, industry, public agency or commercial domestic establishment which is issued a permit.

(25) “Person” as defined in ch. 283, Stats., means an individual, owner or operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

(26) “pH excursion” means an unintentional and temporary incident in which the pH value of the discharge wastewater exceeds the range set forth in the applicable effluent limitations as specified in the permit.

(27) “Point source” as defined in s. 283.01 (12), Stats., means any discernible, confined and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, landfill leachate collection system, concentrated animal feeding operation or vessel or other floating craft from which pollutants may be discharged either into the waters of this state or into a publicly owned treatment works. Point source does not include diffused surface drainage or any ditch or channel which serves only to intermittently drain excess surface water from rain or melting snow and is not used as a means of conveying pollutants into waters of the state. Point source does not include uncontrolled discharges composed entirely of storm runoff when these discharges are uncontaminated by any industrial or commercial activity, unless the particular storm runoff discharge has been identified by the department as a significant contributor of pollution.

(28) “Pollutant” as defined in s. 283.01 (13), Stats., means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, filter backwash, wrecked

or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

(29) “Pollution” as defined in ch. 283, Stats., means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

(30) “Process wastewater” means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product, and is likely to contain in solution or suspension various components of such raw materials or products.

(31) “Publicly owned treatment works” has the meaning specified under s. NR 211.03 (11).

(31g) “Sanitary sewer overflow” has the meaning specified under s. NR 210.03 (10).

Note: Section NR 210.03 (10) reads: “Sanitary sewer overflow” means a release of wastewater from a sewage collection system or an interceptor sewer directly into a water of the state or to the land surface.

(31r) “Satellite sewage collection system” means a municipally owned or a privately owned sewage collection system that conveys wastewater to another satellite sewage collection system or to another sewerage system that provides wastewater treatment and discharges under a separate WPDES permit.

(32) “Schedule of compliance” as defined in ch. 283, Stats., means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation or other limitation, prohibition or standard.

(33) “Secretary” as defined in ch. 283, Stats., means the secretary of the department or the secretary’s designee.

(34) “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources. Severe property damage does not mean economic loss caused by delays in production.

(35) “Sewage” as defined in s. 299.01, Stats., means the water carried wastes created in and to be conducted away from residences, industrial establishments, and public buildings as defined in s. 101.01 (12), Stats., with such surface or groundwater as may be present.

(35e) “Sewage treatment facility” has the meaning specified under s. NR 110.03 (29).

Note: Section NR 110.03 (29) reads: “Sewage treatment facility” means all the structures, pipes and other equipment that constitute the various treatment processes and treatment units employed to reduce pollutants in sewage.

(35m) “Sewage treatment facility overflow” has the meaning specified under s. NR 210.03 (13).

Note: Section NR 210.03 (13) “Sewage treatment facility overflow” means a release of wastewater from a location within a sewage treatment facility, other than permitted effluent outfall structures, directly to a water of the state or to the land surface. A sewage treatment facility overflow does not include blending, controlled diversions or discharges from permitted combined sewage treatment facility effluent outfall structures.

(35s) “Sewerage System” has the meaning specified under s. NR 110.03 (30).

Note: Section NR 110.03 (30) reads: “Sewerage system” means all structures, conduits and pipes, by which sewage is collected, treated, and disposed of, except plumbing inside and in connection with buildings served, and service pipes, from building to street main.

(36) “Sludge” means the accumulated solids generated during the biological treatment, chemical treatment, coagulation or sedimentation of water or wastewater.

(37) “Standard of performance” means any restriction established on quantities, rates and concentrations of chemical, physical, biological and other constituents of wastewaters which are or may be discharged from new sources into the waters of the state.

(38) “Storm water” or “storm runoff” means water resulting from melting snow or rainfall.

(39) “Toxic pollutants” as defined in ch. 283, Stats., means those pollutants or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, injection, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the depart-

ment, cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction or physical deformations, in such organisms or their offspring.

(39g) “Treatment process” has the meaning specified under s. NR 110.03 (32g).

Note: Section NR 110.03 (32g) “Treatment process” means a physical, biological or chemical action that is applied to wastewater to remove or reduce pollutants. A treatment process may consist of multiple individual treatment units. “Treatment process” includes screening, chemical treatment, sedimentation, biological treatment, filtration, disinfection and sludge digestion.

(39r) “Treatment unit” has the meaning specified under s. NR 110.03 (32i).

Note: Section NR 110.03 (32i) reads: “Treatment unit” means individual structures or equipment within a sewage or wastewater treatment facility that are part of a treatment process. Typical treatment units are screens, clarifiers, aeration tanks, filters, digesters and lagoons.

(40) “Treatment work” as defined in ch. 283, Stats., means any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature or necessary to recycle or reuse water at the most economical cost over the estimated life of the work, including intercepting sewers, outfall sewers, sewage collection systems, cooling towers and ponds, pumping, power and other equipment, and their appurtenances, extensions, improvements, remodeling, additions, and alterations thereof, elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment. Additionally, treatment work means any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems.

(41) “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(42) “Vessel” as defined in ch. 283, Stats., means any watercraft or other artificial contrivance used or capable of being used as a means of transportation on water.

(43) “Wastewater” means cooling water, contaminated storm water, noncontact cooling water, process wastewater, sewage or any combination of these.

(43m) “Wastewater treatment facility” means all the structures, pipes, and other equipment that constitute the various treatment processes and treatment units employed to reduce pollutants in wastewater.

(44) “Waters of the state” as defined in ch. 283, Stats., means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

History: Cr. Register, September, 1984, No. 345, eff. 10-1-84; am. (31), Register, April, 1990, No. 412, eff. 5-1-90; am. (13), Register, December, 1995, No. 480, eff. 1-1-96; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, November, 1996, No. 491; correction in (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2001, No. 544; correction in (35) was made under s. 13.93 (2m) (b) 7., Stats., Register, May, 2001, No. 545; CR 12-027: cr. (3m), (4m), am. (5), cr. (6e), (6m), (6s), (9m), (31g), (31r), (35e), (35m), (35s), (39g), (39r), (43m) Register July 2013 No. 691, eff. 8-1-13; correction in (39r) made under s. 13.92 (4) (b) 7., Stats., Register July 2013 No. 691; CR 15-085: cr. (9g) Register August 2016 No. 728, eff. 9-1-16; CR 17-002: am. (27), (28) Register April 2018 No. 748, eff. 5-1-18.

NR 205.04 Abbreviations. The abbreviations listed below have the meanings shown unless otherwise specifically defined wherever they occur in chs. NR 200 to 299 and in public

notices, fact sheets, and permits issued under the Wisconsin pollutant discharge elimination system.

- (1) “ac” means acre.
- (2) “avg” means the average for 30 days.
- (3) “BAT” means best available technology economically achievable.
- (4) “BCT” means best conventional pollutant control technology.
- (5) “BOD” or “BOD₅” means the 5 day biochemical oxygen demand.
- (6) “BPT” means best practicable technology currently available.
- (7) “btu” means British thermal unit.
- (8) “cm” means centimeter.
- (9) “COD” means chemical oxygen demand.
- (10) “cu ft” means cubic foot.
- (11) “cu m” means cubic meter.
- (12) “cu y” means cubic yard.
- (13) “DMR” means discharge monitoring report.
- (14) “DNR” means department of natural resources.
- (15) “DO” means dissolved oxygen.
- (16) “EPA” means the U.S. environmental protection agency.
- (17) “g” means gram.
- (18) “gal” means gallon.
- (19) “gpd” means gallons per day.
- (20) “ha” means hectare.
- (21) “hp” means horsepower.
- (22) “in” means inch.
- (23) “k cu m” means 1,000 cubic meters.
- (24) “kg” means kilogram.
- (25) “kgg” means 1,000 kilograms.
- (26) “kw” means kilowatt.
- (27) “kwh” means kilowatt hour.
- (28) “l” means liter.
- (29) “lb” means pound.
- (30) “m” means meter.
- (31) “max” means the maximum for any one day.
- (32) “meq” or “meq/l” means milliequivalents or milliequivalents per liter.
- (33) “mg” means milligram.
- (34) “MGD” or “mgd” means millions of gallons per day.
- (35) “ml” means milliliter.
- (36) “mm” means millimeter.
- (37) “mpn” or “MPN” means most probable number.
- (38) “Mw” means megawatt.
- (39) “Mwh” means megawatt hour.
- (40) “NPDES” means the national pollutant discharge elimination system.
- (40m) “NSPS” means new source performance standards.
- (41) “pH” means the logarithm of the reciprocal of the hydrogen ion concentration or the negative logarithm of the hydrogen ion concentration.
- (42) “PCB” means polychlorinated biphenyl.
- (43) “POTW” means publicly owned treatment work.
- (43k) “PSES” means pretreatment standards for existing sources.
- (43n) “PSNS” means pretreatment standards for new sources.
- (44) “sq ft” means square foot.
- (45) “sq m” means square meter.
- (46) “SS” or “TSS” means total suspended (nonfiltrable) solids.
- (47) “TDS” means total dissolved (filtrable) solids.
- (48) “TOC” means total organic carbon.
- (49) “TTO” means total toxic organics.

(50) “tpd” means tons per day.

(51) “ug” means micrograms.

(52) “WPDES” means the Wisconsin pollutant discharge elimination system.

History: Cr. Register, September, 1984, No. 345, eff. 10-1-84; cr. (40m), (43k) and (43n), Register, April, 1990, No. 412, eff. 5-1-90; correction in (intro.) was made under s. 13.93 (2m) (b) 7., Stats., Register, May, 2001, No. 545.

NR 205.05 Rainfall events. The design rainfall amount and probable intensity of 10-year and 25-year, 24-hour rainfall events for locations in Wisconsin shall be determined from the data in table 1, or for a particular location such determination may be made on the basis of more recent rainfall probability data verified by a government agency and approved by the department for this purpose.

Table 1
Probable 24-Hour Rainfall Events, in inches of rain, for counties in Wisconsin

	10-year	25-year		10-year	25-year		10-year	25-year
Adams	4.1	4.7	Iowa	4.3	4.9	Polk	4.1	4.7
Ashland	3.9	4.3	Iron	3.8	4.3	Portage	4.0	4.5
Barron	4.1	4.6	Jackson	4.2	4.8	Price	4.0	4.4
Bayfield	3.9	4.4	Jefferson	4.0	4.6	Racine	4.0	4.6
Brown	3.7	4.3	Juneau	4.1	4.7	Richland	4.3	4.9
Buffalo	4.3	4.8	Kenosha	4.0	4.6	Rock	4.1	4.7
Burnett	4.0	4.6	Kewaunee	3.7	4.2	Rusk	4.1	4.6
Calumet	3.8	4.4	LaCrosse	4.3	4.9	St. Croix	4.2	4.7
Chippewa	4.1	4.7	Lafayette	4.3	4.9	Sauk	4.2	4.8
Clark	4.1	4.7	Langlade	3.8	4.3	Sawyer	4.0	4.5
Columbia	4.1	4.7	Lincoln	3.9	4.4	Shawano	3.8	4.4
Crawford	4.3	5.0	Manitowoc	3.8	4.3	Sheboygan	3.8	4.4
Dane	4.2	4.8	Marathon	4.0	4.5	Taylor	4.1	4.6
Dodge	4.0	4.6	Marquette	3.6	4.1	Trempealeau	4.3	4.8
Door	3.6	4.1	Marquette	4.1	4.6	Vernon	4.3	4.9
Douglas	3.9	4.4	Menominee	3.7	4.3	Vilas	3.8	4.3
Dunn	4.2	4.7	Milwaukee	3.9	4.5	Walworth	4.1	4.6
Eau Claire	4.2	4.7	Monroe	4.2	4.8	Washburn	4.0	4.5
Florence	3.6	4.1	Oconto	3.7	4.2	Washington	3.9	4.5
Fond du Lac	3.9	4.5	Oneida	3.8	4.3	Waukesha	4.0	4.6
Forest	3.7	4.2	Outagamie	3.8	4.4	Waupaca	3.9	4.5
Grant	4.3	5.0	Ozaukee	3.9	4.4	Waushara	4.0	4.6
Green	4.2	4.8	Pepin	4.3	4.8	Winnebago	3.9	4.5
Green Lake	4.0	4.6	Pierce	4.2	4.8	Wood	4.1	4.6

Note: The data of table 1 were obtained by extrapolation from maps published by the National Weather Service in Technical Paper No. 40, “Rainfall Frequency Atlas of the United States”.

History: Cr. Register, September, 1984, No. 345, eff. 10-1-84.

NR 205.06 Effluent limitations applicable where pH is monitored continuously. When an industrial point source discharger continuously monitors the pH of wastewater in accordance with the requirements of a WPDES permit and the pH limits in the permit are established as part of the effluent limitations applicable to the category of dischargers to which the industrial point source belongs, the permittee shall maintain the pH of such wastewater within the range of the categorical limits, except pH excursions from the range are permitted subject to the following constraints:

(1) The total time during which the pH values are outside the range of categorical pH limits may not exceed 7 hours and 26 minutes in any calendar month.

(2) An individual excursion from the range of categorical pH limits may not exceed 60 minutes.

(3) These provisions do not apply to pH limits required in a WPDES permit which are established under s. NR 102.05 (3) (h).

History: Cr. Register, September, 1984, No. 345, eff. 10-1-84; correction in (3) was made under s. 13.93 (2m) (b) 7., Stats., Register, May, 2001, No. 545.

NR 205.065 Effluent Limitations. (1) EFFLUENT LIMITATIONS IN PERMITS. The department shall impose permit effluent limitations or effluent standards for discharges of pollutants on the discharge point of the permitted facility except as provided in sub. (2).

(2) **INTERNAL WASTE STREAMS.** The department may impose permit effluent limitations or effluent standards for discharges of

pollutants on an internal waste stream when all of the following are true:

(a) Imposing effluent limitations or standards at the point of discharge is impractical or infeasible.

(b) The internal waste stream has not mixed with other waste streams or cooling water streams.

(c) The fact sheet under ch. NR 201 states the reasons why it is necessary to impose effluent limitations or standards on an internal waste stream.

(3) **CALCULATION OF EFFLUENT LIMITATIONS FOR POTWS.** For continuous dischargers as defined in s. NR 205.03 (9g) and subject to ch. NR 210, effluent limitations shall be based on the maximum effluent flow, expressed as a daily average, that is anticipated to occur for 12 continuous months during the design life of the treatment facility unless it is demonstrated to the department that such a design flow rate is not representative of projected flows at the facility.

(4) **CALCULATION OF EFFLUENT LIMITATIONS FOR OTHER CONTINUOUS DISCHARGES.** For all other discharges not subject to ch. NR 210, effluent limitations shall be calculated based on actual representative flow values except as provided in pars. (a) and (b).

(a) For new discharges, production-based effluent limitations shall be estimated using projected production.

(b) If a facility is expanding or decreasing production levels, the department may use an estimated alternative production value to calculate production-based effluent limitations.

(5) **INTAKE WATER CREDIT.** If requested by the permittee in the permit application for issuance or reissuance, technology-based effluent limitations shall, for each substance or parameter, be adjusted to reflect the discharger's intake water if all of the following conditions are met:

(a) Antidegradation requirements in ch. NR 207 are satisfied, if applicable.

(b) The permittee does not discharge raw water clarifier sludge generated from the treatment of intake water.

(c) The permittee demonstrates that the applicable technology-based effluent limitation for the pollutant would be met in the absence of the pollutant in the intake water.

(d) The permittee demonstrates that the constituents of the pollutant in the effluent are substantially similar to the constituents of the pollutant in the intake water. The permittee shall also demonstrate that the intake water is drawn from the same waterbody as defined in s. NR 106.03 (11m) from into which the discharge is made.

(6) **MAXIMUM INTAKE WATER CREDIT.** If intake credit is granted pursuant to sub. (5), that intake credit cannot exceed the maximum value equal to the influent value, and shall be no greater than the value necessary to comply with the applicable permit effluent limitation. Additional monitoring may be included in the permits to determine eligibility for credits and compliance with the applicable limits.

(7) **EFFLUENT LIMIT EXPRESSION.** Effluent limitations shall be expressed in accordance with this subsection except if the department determines it is impracticable, or if the department determines that different time periods for expressing limitations are needed to ensure compliance with the applicable water quality standard and different time periods are established in another rule provision for a specific pollutant. Water quality-based effluent limitations for toxic pollutants shall be expressed in a permit in accordance with ch. NR 106. Effluent limitations shall be expressed in accordance with all of the following:

(a) For continuous dischargers as defined in s. NR 205.03 (9g) and subject to ch. NR 210, limitations shall be expressed as average weekly and average monthly discharge limitations.

(b) For continuous discharges as defined in s. NR 205.03 (9g) and not subject to ch. NR 210, limitations shall be expressed as daily maximum and average monthly discharge limitations.

(c) For seasonal discharges, discharges proportional to stream flow, or other unusual discharge situations that do not meet the definition of a continuous discharge in s. NR 205.03 (9g), limitations shall be expressed on a case-by-case basis. When determining limitations the department shall consider all of the following factors:

1. Frequency and duration of discharge.
2. Total mass of discharge.
3. Maximum flow rate of discharge.
4. Whether the pollutant is subject to other limitations expressed by mass, concentration, or other appropriate measure in the permit.

Note: An example of a different time period for expressing limits for a specific pollutant or parameter is phosphorus limitations as specified in s. NR 217.14.

(8) **MASS LIMITATIONS.** (a) All pollutants limited in permits shall have limitations, standards, or prohibitions expressed in terms of mass, except for any of the following situations:

1. Pollutants limited in permits that cannot be appropriately expressed by mass such as pH, chlorine, temperature, radiation, or other pollutants.

2. When applicable standards and limitations are expressed in terms of other units of measurement.

3. If limitations expressed in terms of mass are infeasible because the mass of the pollutant discharged cannot be related to a measure of operation.

(b) If a mass limit is included in the permit for a pollutant, the pollutant may also be limited in terms of other units of measure-

ment in the permit, and the permit shall require the permittee to comply with both limitations.

(9) **METALS.** All permit effluent limitations, standards, or prohibitions for a metal shall be expressed in terms of total recoverable in a permit unless any of the following conditions apply:

(a) An applicable effluent standard or limitation has been promulgated and specifies the limitation for the metal in dissolved or valent or total form.

(b) In establishing permit limitations on a case-by-case basis, it is necessary to express the limitation for the metal in the dissolved or valent or total form to carry out the provisions of the federal Clean Water Act or ch. 283, Stats.

(c) All approved analytical methods for the metal inherently measure only the dissolved form of the pollutant.

History: CR 15-085: cr. Register August 2016 No. 728, eff. 9-1-16.

NR 205.066 Permit Conditions. (1) **MONITORING.** The department shall determine on a case-by-case basis the monitoring frequency to be required for each effluent limitation in a permit. Monitoring shall occur at the point of discharge or at the internal waste stream if the permit limitations are imposed on the internal waste stream under s. NR 205.065 (2) unless an alternative location is established by the department in the permit.

(2) **PRODUCTION LIMIT DOCUMENTATION.** If limits are calculated under s. NR 205.065 (4) (a) or (b) the permittee shall submit with the DMR the level of production that actually occurred during each month limits are effective.

(3) **EXCEEDANCE OF PRODUCTION LIMITS.** The permittee shall comply with the limitations, standards, and prohibitions calculated under s. NR 205.065 (4) (b) unless the permittee has notified the department in writing of an anticipated exceedance of the estimated alternative design flow used to calculate limits, in which case the permittee may comply with an alternative design flow, not to exceed the production level specified in the notice. Written notifications must be submitted to the department at least two business days prior to a month in which the permittee expects to operate at a level higher than the lowest production level identified in the permit and shall specify the anticipated level, period during which the permittee expects to operate at the alternate level, and the reasons for the anticipated production level increase. Notice of increased discharge must be submitted to the department for all exceedances not covered in previous notifications.

History: CR 15-085: cr. Register August 2016 No. 728, eff. 9-1-16.

NR 205.067 Reasonable potential for water quality based effluent limitations. (1) **GENERAL.** (a) The department shall include an effluent limitation for a pollutant in a WPDES permit when the department determines that the discharge of the pollutant causes, has the reasonable potential to cause, or contributes to an excursion above the allowable ambient concentration of a numeric water quality criterion in chs. NR 102 to 104 in the receiving water or a downstream water.

Note: Downstream water includes downstream waterbodies in other states or tribal waters that have EPA approved standards under 40 CFR 130.

(b) Limitations shall control all pollutants or pollutant parameters, including conventional, nonconventional, and toxic pollutants, that the department determines are or may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard in chs. NR 102 to 104, including narrative criteria for water quality.

(2) **FACTORS TO CONSIDER.** When determining under sub. (1) or (4) whether a pollutant discharged causes, has the reasonable potential to cause, or contributes to an exceedance of a numeric or narrative water quality standard, the department shall consider all of the following factors:

(a) Existing controls on the discharge.

(b) Controls on the pollutant discharged by nonpoint source pollution in the watershed.

(c) The variability of the pollutant or parameter in the effluent discharged.

(d) Sensitivity of species to toxicity testing when evaluating whole effluent toxicity as defined in s. NR 106.03 (14).

(e) Dilution of the effluent in the receiving water.

(3) WATER QUALITY BASED EFFLUENT LIMITATIONS. If the department determines a limitation is necessary under this section, the limitation shall:

(a) Be consistent with a total maximum daily load as defined in s. NR 217.11 (7) if a total maximum daily load has been approved by the EPA for the receiving waterbody.

(b) Ensure achievement of a level of water quality derived from, and in compliance with, the applicable water quality standard.

(4) IN ABSENCE OF NUMERIC WATER QUALITY CRITERIA. (a) When a chemical pollutant, for which a numeric water quality criterion does not exist, is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion above a narrative criterion within an applicable water quality standard, effluent limits shall be established using one or more of the following options:

1. Establish effluent limits using a calculated numeric water quality criterion for the pollutant that the department demonstrates will attain and maintain applicable narrative water quality criteria and will fully protect the designated use. Such a criterion may be derived using data for a proposed criterion or other relevant information such as EPA's Water Quality Standards Handbook, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration, and current EPA criteria documents.

Note: EPA's Water Quality Standards Handbook is available at the following link: <https://www.epa.gov/wqs-tech/water-quality-standards-handbook>.

2. Establish effluent limits on a case-by-case basis, using EPA's water quality criteria, published under 33 USC 1314(a), supplemented when necessary by other relevant information.

3. Establish effluent limits on an indicator parameter for the pollutant of concern, provided that all of the following are true:

a. The permit identifies which pollutants are intended to be controlled by the use of the effluent limitation.

b. The fact sheet sets forth the basis for the limit, including a finding that compliance with the effluent limit of the indicator parameter will result in controls on the pollutant of concern that are sufficient to attain and maintain applicable water quality standards.

c. The permit requires all effluent and ambient monitoring necessary to show that, during the term of the permit, the limit on the indicator parameter continues to attain and maintain applicable water quality standards.

d. The permit contains a reopener clause allowing the department to modify or revoke and reissue the permit if the limits on the indicator parameter no longer attain and maintain applicable water quality standards.

(b) If there is reasonable potential under par. (a) to exceed a narrative criterion and if required under s. NR 106.08, a limitation for whole effluent toxicity shall be included in the permit.

Note: Limitations and procedures for whole effluent toxicity are established in subch. II of ch. NR 106.

(5) LIMIT CONTINUATION. (a) Subject to par. (b), if a permit includes a water quality based effluent limitation for a pollutant because the limitation is required under this section or is required under the procedures in another chapter, the water quality based effluent limitation for the pollutant shall be included in a subsequently reissued permit if all of the following apply:

1. Treatment or pollutant control measures were added to comply with the water quality based effluent limitation for the pollutant and the water quality based effluent limitation took effect in a prior permit.

2. The facility has the ability to alter or suspend the treatment or pollutant control measures for the pollutant to the degree that there is continued reasonable potential to exceed the applicable standard.

(b) If the department determines a more stringent limitation is necessary to comply with water quality standards, a more stringent water quality based effluent limitation shall be included in the permit for the pollutant. Also, the department may include a less stringent limitation provided water quality standards, including antidegradation, as well as antibacksliding requirements in ch. NR 207 are met.

(6) EXCEPTION. Subsections (1) to (4) do not apply to pollutants or limitations that are subject to the procedures in ch. NR 106 or 217.

History: CR 17-002; cr. Register April 2018 No. 748, eff. 5-1-18; correction in (5) (a) (intro.), (6) made under s. 35.17, Stats., Register April 2018 No. 748.

NR 205.07 General conditions. (1) The following conditions shall be included in all WPDES permits issued by the department. Other conditions that may be included in POTW and non-POTW permits are contained in subs. (2) and (3), respectively.

(a) *Duty to comply.* The permittee shall comply with all conditions of the permit. Any permit noncompliance is a violation of the permit and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or denial of a permit reissuance application. If a permittee violates any terms of the permit, the permittee is subject to the penalties established in ch. 283, Stats.

(b) *Permit actions.* As provided in s. 283.53, Stats., after notice and opportunity for a hearing the permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(c) *Property rights.* The permit does not convey any property rights of any sort, or any exclusive privilege. The permit does not authorize any injury or damage to private property or any invasion of personal rights, or any infringement of federal, state or local laws or regulations.

(d) *Inspection and entry.* The permittee shall allow an authorized representative of the department, upon the presentation of credentials, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records are required under the conditions of the permit;

2. Have access to and copy, at reasonable times, any records that are required under the conditions of the permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under the permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance, any substances or parameters at any location.

(e) *Recording of results.* For each effluent measurement or sample taken, the permittee shall record the following information.

1. The date, exact place, method and time of sampling or measurements;

2. The individual who performed the sampling or measurements;

3. The date the analysis was performed;

4. The individual who performed the analysis;

5. The analytical techniques or methods used; and

6. The results of the analysis.

(f) *Records retention.* The permittee shall retain records of all monitoring information, including all calibration and maintenance

nance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application for the permit for a period of at least 3 years from the date of the sample, measurement, report or application. All pertinent sludge information, including permit application information and other documents specified in the permit or ch. NR 204, shall be retained for a minimum of 5 years. The department may request that this period be extended by issuing a public notice to modify the permit to extend this period.

(g) *Signatory requirement.* 1. All permit applications, reports, and other information requested by the department shall be signed by a responsible executive or municipal officer, manager, partner or proprietor as specified in s. 283.37 (3), Stats., or a duly authorized representative of the officer, manager, partner or proprietor that has been delegated signature authority pursuant to subd. 2. All applications and reports submitted to the department shall include the certification statement specified in subd. 3.

Note: Section 283.37 (3), Stats. states that an application form shall be signed by:

(a) In the case of a corporation, by a principal executive officer of at least the level of vice president or by the principal executive officer's authorized representative responsible for the overall operation of the point source for which a permit is sought.

(aL) In the case of a limited liability company, by a member or manager.

(b) In the case of a partnership, by a general partner.

(c) In the case of a sole proprietorship, by the proprietor.

(d) In the case of publicly owned treatment works or a municipal separate storm sewer system by a principal executive officer, ranking elected official, or other duly authorized employee.

Note: Examples of permit documents that must be signed and certified by an officer, manager, partner or proprietor or their authorized representative include: permit applications under s. NR 200.07, variance applications under s. NR 200.23, submittals for other permit actions under s. NR 203.135, discharge monitoring reports under s. NR 205.07 (1) (r) 1., and compliance maintenance annual reports under s. NR 208.04. In addition, any other department forms with a signature block for the authorized representative shall comply with these signatory requirements.

2. An officer, manager, partner or proprietor in subd. 1. may only delegate signature authority to a duly authorized representative if that person has responsibility for the overall operation of the facility or activity regulated by the WPDES permit. To delegate signature authority, the officer, manager, partner, or proprietor shall:

a. Provide written permission to a duly authorized representative to submit specific documents on behalf of the officer, manager, partner, or proprietor for the permitted facility.

b. The delegated authorization shall specify either a named individual or an employment position that has the signature authority and responsibility.

c. The written permission must be submitted to the department prior to or together with the submittal of any required document. If there are any changes to this permission, a new written permission shall be submitted to the department.

3. Any person under subd. 1. or 2. signing a permit application, report or other form as required by the department shall provide the following certification statement: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

4. Upon written request to the department and subject to the department's approval, a permittee may submit information by electronic media or electronic transmission provided the officer or authorized representative signs and submits a certification statement in accordance with subd. 3.

(h) *Compliance schedules.* Reports of compliance or noncompliance with interim and final requirements contained in any com-

pliance schedule of the permit shall be submitted in writing within 14 days after the schedule date, except that progress reports shall be submitted in writing on or before each schedule date for each report. Any report of noncompliance shall include the cause of noncompliance, a description of remedial actions taken and an estimate of the effect of the noncompliance on the permittee's ability to meet the remaining schedule dates.

(i) *Transfers.* A permit is not transferable to any person except after notice to the department. In the event of a transfer of control of a permitted facility, the prospective owner or operator shall file a new permit application and shall file a stipulation of permit acceptance with the department WPDES permit section. The department may require modification or revocation and reissuance of the permit to change the name of the permittee and to reflect the requirements of ch. 283, Stats.

(j) *Proper operation and maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit. The wastewater treatment facility shall be under the direct supervision of a state certified operator as required in s. NR 108.06 (2). Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training as required in ch. NR 114 and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(k) *Duty to mitigate.* The permittee shall take all reasonable steps to minimize or prevent the likelihood of any adverse impacts to public health, the waters of the state, or the environment resulting from noncompliance with the permit.

(L) *Duty to provide information.* The permittee shall furnish the department, within a reasonable time, any information which the department may request to determine whether cause exists for modifying, terminating, suspending, revoking or reissuing the permit or to determine compliance with the permit. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The permittee shall also furnish the department, upon request, copies of records required to be kept by the permittee.

(m) *Duty to comply with new federal sludge standards.* The permittee shall comply with any new federal standards or prohibitions for sludge use or disposal established under section 405 (d) of the clean water act within the time provided in the federal regulations that establishes the standards even if the permit has not yet been modified to incorporate the new standards.

(n) *Duty to reapply.* If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee shall apply electronically, using the department's web-based application system, for a new permit.

Note: The department's web-based application system can be accessed at: <http://dnr.wi.gov/topic/switchboard/index.html>.

(o) *Need to halt or reduce activity not a defense.* It is not a defense for a permittee in an enforcement action to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(p) *Sampling procedures.* Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored discharge and shall be taken at points specified in the permit using sample types specified in the permit and the following procedures:

1. For effluent flow measurement and sample collection — ch. NR 218.

2. For groundwater sample collection and analysis — ch. NR 214.

3. Monitoring shall be conducted according to test procedures specified in ch. NR 219. For sludge use or disposal, monitoring shall be conducted as specified in ch. NR 204. Additional test procedures may be specified in the permit on a case-by-case basis.

(q) *Reporting requirements.* The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification requirement applies to pollutants which are not subject to effluent limitations in the existing permit.

3. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process nor reported pursuant to an approved land application plan. Additional sites may not be used for the land application of sludge until department approval is received, as required by ch. NR 204.

(r) *Monitoring reports.* Monitoring results shall be reported at the intervals specified in the permit.

1. Monitoring results shall be reported on an electronic discharge monitoring report (eDMR) or in a form approved by the department for reporting results of monitoring of sludge use or disposal practices.

Note: eDMRs are submitted at: <http://dnr.wi.gov/topic/wastewater/eReporting.html>.

2. If the permittee monitors any parameter more frequently than required by the permit, using test procedures specified in ch. NR 204 or 219, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the eDMR or sludge reporting form submitted to the department.

3. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the department in the permit.

(s) *Noncompliance and other reporting.* 1. Sanitary sewer overflows and sewage treatment facility overflows shall be reported in accordance with s. NR 210.21 (4). Permittees shall report all other noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

2. The following are examples of noncompliance incidents that shall be reported within 24 hours in accordance with the requirements in subd. 1.:

a. Except for a scheduled bypass approved pursuant to s. NR 205.07 (1) (u) 2., any bypass which exceeds any effluent limitation in the permit.

b. Any upset which exceeds any effluent limitation in the permit.

c. Violation of any maximum discharge limitation for any of the pollutants listed by the department in the permit, for either effluent or sludge.

3. The department may waive the written report requirement on a case-by-case basis for reports specified in subd. 1. if the oral report has been received within 24 hours.

4. The permittee shall report other instances of noncompliance not reported under subd. 1. at the time discharge monitoring reports are submitted either on the report itself or as an attachment to the report. The reports shall contain the information specified in subd. 1. and shall be submitted to the department at the intervals specified in the permit.

(t) *Other information.* Where the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the department, it shall promptly submit such facts or correct information to the department.

(u) *Bypassing.* Except for a controlled diversion as provided in par. (v), any bypass is prohibited. The Department may approve the following:

1. 'Blending.' The bypass event is blending at a sewage treatment facility and complies with the requirements of s. NR 210.12.

2. 'Scheduled bypass.' The bypass event is scheduled or anticipated in advance by the permittee and the permittee received prior written approval from the department for the scheduled bypass. A permittee's written request for department approval of a scheduled bypass shall demonstrate that the conditions in subd. 3. are met and include the proposed date and reason for the bypass, estimated volume and duration of the bypass, alternatives to bypassing, and measures to mitigate environmental harm caused by the bypass. The department may require the permittee to provide public notification for a scheduled bypass if it is determined there is significant public interest in the proposed action.

Note: If the department determines there is significant public interest in the proposed action, the department may schedule a public hearing or notice regarding the proposal for a scheduled bypass.

3. 'Other bypass.' The permittee demonstrates that all of the following apply:

a. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities or adequate back-up equipment, retention of untreated wastes, reduction of inflow and infiltration, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance.

Note: When evaluating feasibility of alternatives, the department may consider factors such as technical achievability, costs and affordability of implementation and risks to public health, the environment, and, where the permittee is a municipality, the welfare of the community served.

c. The bypass was reported in accordance with par. (s) or the permittee reported in accordance with s. NR 210.21 (4).

Note: Pursuant to ss. 283.89 and 283.91, Stats., violations of permit conditions or rule requirements are referred to the department of justice for enforcement.

(v) *Controlled diversion.* Controlled diversions are allowed provided the following requirements are met:

1. Effluent from the sewage treatment facility or wastewater treatment facility shall meet the effluent limitations established in the permit. Wastewater that is diverted around a treatment unit or treatment process during a controlled diversion shall be recombinated with wastewater that is not diverted prior to the effluent sampling location and prior to effluent discharge.

2. A controlled diversion may not occur during periods of excessive flow or other abnormal wastewater characteristics.

3. A controlled diversion may occur only when necessary for essential maintenance to assure efficient operation.

Note: Sewage treatment facilities that have multiple treatment units to treat variable or seasonal loading conditions may shut down redundant treatment units when necessary for efficient operation.

4. A controlled diversion may not result in a sewage treatment facility or wastewater treatment facility overflow.

5. All instances of controlled diversions shall be documented in sewage treatment facility or wastewater treatment facility records and such records shall be available to the department on request.

(x) *Permit as enforcement shield.* Compliance with a permit during its term constitutes compliance for purposes of enforcement with 33 USC 1311, 1312, 1316, 1317, 1328, and 1345 (a) and (b), except for any toxic effluent standard or prohibition, and standards for sewage sludge use or disposal. If a new or revised toxic effluent standard or toxic prohibition becomes effective during the term of the permit, the permittee may be subject to enforcement action if the discharge exceeds the new or revised effluent standard for the toxic pollutant even though the discharge is in compliance with the existing permit. The permittee may also be subject to enforcement action standards for sewage sludge use or disposal. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in ch. 283, Stats., and ch. NR 203.

Note: The toxic effluent standards in s. NR 205.07 (1) (x) are the technology based limitations applicable to the categorical sources in accordance with 33 USC 1317 (sec. 307 of the Clean Water Act). Refer to 40 CFR 122.5 (a).

(y) *Affirmative defense.* Compliance with a permit condition which implements a particular standard for sewage sludge use or disposal shall be an affirmative defense in any enforcement action brought for a violation of that standard for sewage sludge use or disposal.

(2) The following conditions may be included in a WPDES permit issued by the department to the owner or operator of a POTW.

(a) *POTW's and planned changes.* All permittees who are POTWs shall provide adequate advance notice to the department of the changes in subs. 1. and 2. Written notice shall provide information on the quality and quantity of effluent introduced into the POTW, and any anticipated impact of the change on the quantity or quality of effluent and sludge to be discharged from the POTW.

1. Any new introduction of pollutants into a POTW from an indirect discharger which would be subject to s. 283.31, Stats., if it were directly discharging those pollutants; and

2. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of permit issuance.

(b) *Prohibited wastes.* Under no circumstances may the introduction of wastes prohibited by s. NR 211.10 be allowed into the waste treatment system. Prohibited wastes include those:

1. Which create a fire or explosion hazard in the treatment work;

2. Which will cause corrosive structural damage to the treatment work;

3. Solid or viscous substances in amounts which cause obstructions to the flow in sewers or interference with the proper operation of the treatment work;

4. Wastewaters at a flow rate or pollutant loading which are excessive over relatively short time periods so as to cause a loss of treatment efficiency; or

5. Changes in discharge volume or composition from contributing industries which overload the treatment works or cause a loss of treatment efficiency.

(c) *Pretreatment.* The permittee shall require any industrial user of the permitted facility to meet pretreatment standards established under s. 283.21 (2), Stats., and to provide records or reports, or all information, related to compliance with pretreatment standards.

(dm) *Unscheduled sludge removal.* Any disposal of grit, screenings, scum, sludges or other solids generated as a result of wastewater treatment processes shall be prohibited unless such

disposal is authorized by a WPDES permit or other department license or approval.

(e) *Priority system for septage acceptance at a POTW.* A POTW that accepts septage for treatment and disposal and is unable to accommodate all the requests for acceptance by licensed disposers shall use the following priority system for acceptance:

1. First priority. Wastes from existing or new holding and septic tanks within the POTW's sewer service area and holding tanks within the POTW's holding tank service area.

2. Second priority. Wastes from existing holding tanks for residential or commercial establishments outside the POTW's sewer service area and holding tank service area but inside the POTW's planning area where the holding tank was installed to replace an inadequate private sewerage system.

3. Third priority. Wastes from existing septic tanks and holding tanks that were installed not as a replacement to an inadequate sewer system for residential or commercial establishments outside the POTW's sewer service and holding tank service areas but inside the POTW's planning area.

4. Fourth priority. Wastes from new or existing septic and holding tanks for residential or commercial establishments outside the POTW's planning area.

(f) *Septage treatment requirements by a POTW.* Except as provided in s. 281.49, Stats., a POTW shall accept, treat and dispose of all of the following septage:

1. Septage that is generated within its sewer service area.

2. Holding tank wastewater that is generated outside the POTW's sewer service area but inside or equal to the POTW's planning area where a contract has been developed for acceptance, treatment or disposal.

(3) The following conditions may be included in a WPDES permit issued by the department to the owner or operator of a non-POTW.

(a) *Removed substances.* Solids, sludges, filter backwash or other pollutants removed from or resulting from treatment or control of wastewaters or intake waters shall be stored and disposed of in a manner to prevent any pollutant from the materials from entering the waters of the state. Land disposal or application of treatment plant solids and sludges shall be at a site or operation licensed by the department under chs. NR 500 to 538 or chs. NR 660 to 670 or in accordance with ch. NR 204 or 214.

(b) *Spill reporting.* The permittee shall notify the department in accordance with ch. NR 158, in the event that a spill or accidental release of any material or substance results in the discharge of pollutants to the waters of the state at a rate or concentration greater than the effluent limitations established in the permit, or the spill or accidental release of the material is unregulated in the permit, unless the spill or release of pollutants has been reported to the department under this section.

Note: Chapter NR 158 has been repealed.

(c) *Planned changes.* In accordance with ss. 283.31 (4) (b) and 283.59 (1), Stats., the permittee shall report to the department any facility expansion, production increase or process modifications which will result in new, different or increased discharges of pollutants. The report shall either be a new permit application or, if the new discharge will not violate the effluent limitations of the permit, a written notice of the new, different or increased discharge. The notice shall contain a description of the new activities, an estimate of the new, different or increased discharge of pollutants and a description of the effect of the new or increased discharge on existing waste treatment facilities. Following receipt of this report, the department may modify the permit to specify and limit any pollutants not previously regulated in the permit.

Note: The notification should be directed to the industrial wastewater section.

(d) *Increased discharge of toxic pollutants.* 1. 'Routine or frequent increase.' The permittee shall notify the department in writing as soon as it knows or has reason to believe that any activity has occurred or will occur which would result, on a routine or fre-

quent basis, in the discharge of any toxic pollutant which is not limited in the permit, if that discharge exceeds the highest of the following levels.

- a. One hundred micrograms per liter (100 ug/l);
- b. Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- c. Five times the maximum concentration value reported for that pollutant in the permit application; or
- d. A notification level greater than the level in subd. 2. a., b. or c., which the department has included as a special condition of the permit.

2. 'Nonroutine or infrequent increase.' The permittee shall notify the department in writing as soon as it knows or has reason to believe that any activity has occurred or will occur which would result, on a nonroutine or infrequent basis, in any discharge of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following levels.

- a. Five hundred micrograms per liter (500 ug/l);
- b. One milligram per liter (1 mg/l) for antimony;
- c. Ten times the maximum concentration value reported for that pollutant in the permit application; or
- d. A notification level greater than the level in subd. 2. a., b. or c., which the department has included as a special condition to the permit.

(e) *Duty to halt or reduce activity.* Upon failure or impairment of treatment facility operation, the permittee shall, to the extent necessary to maintain compliance with its permit, curtail production or wastewater discharges or both until the treatment facility operations are restored or an alternative method of treatment is provided.

(5) Upon written request to the department and subject to the department's approval, a permittee may submit an electronic permit application or reapplication provided the permittee signs and submits an electronic permit application or reapplication agreement certifying that the information was gathered and prepared under his or her supervision and, based on inquiry of the people directly under his or her supervision, that to the best of his or her knowledge the information is true, accurate and complete. The party signing the agreement shall make a similar certification when submitting subsequent information by electronic media or electronic transmission. Electronic reporting shall be an alternative to written reports.

Note: An electronic permit application or reapplication agreement may be obtained from the bureau of watershed management, department of natural resources, P.O. Box 7921, Madison, Wisconsin 53707-7921.

History: Cr. Register, September, 1984, No. 345, eff. 10-1-84; cr. (2) (d) 4., Register, October, 1986, No. 370, eff. 11-1-86; cr. (2) (h) and (i), Register, September, 1987, No. 381, eff. 10-1-87; am. (1) (intro.), (a), (b), (f), (k) and (l), cr. (1) (m), (n), (o), (q), (s) and (t), r. and recr. (2) (a), r. (2) (d) 4., (3) (e) and (k), renum. (2) (d) 1. to 3., (2) (f), (h) and (i), (3) (a) to (d), (f) to (j) to be (l) (u) and (v), (2) (d), (e) and (f), (1) (p) 1. and 2., (r) 2. and (intro.), (3) (a) to (e) and am. (2) (f) (intro.), (1) (p) 2., (1) (r) and (3) (a), Register, December, 1995, No. 480, eff. 1-1-96; cr. (5), Register, November, 1996, No. 491, eff. 12-1-96; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, November, 1996, No. 491; correction in (3) made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1997, No. 500; corrections in (3) (a) made under s. 13.92 (4) (b) 7., Stats., Register February 2010 No. 650; CR 09-123: am. (1) (n), (r) 1., 2., (v) and (2) (d), r. (1) (r) 4. and (u) Register July 2010 No. 655, eff. 8-1-10; CR 12-027: am. (1) (s) (title), 1., 2. a., 3., 4., cr. (1) (u), r. and recr. (1) (v), r. (2) (d) Register July 2013 No. 691, eff. 8-1-13; CR 14-027: am. (1) (a), (b), r. and recr. (1) (g), (q), cr. (1) (x), (y) Register July 2015 No. 715, eff. 8-1-15; correction in (1) (g) made under s. 35.17, Stats., Register July 2015 No. 715.

NR 205.08 General permits. (1) The department may issue general WPDES permits applicable to designated areas of the state authorizing discharges from specified categories or classes of point sources located within those areas.

(a) Designated areas of the state may include any of the following:

1. Any county, township, city or other civil or political division.

2. Any surface water drainage basin, stream or stream segment.

3. Any waters of the state which have the same classification under the water quality standards of chs. NR 102, 103 and 104.

4. The entire state of Wisconsin, where appropriate.

(b) Categories or classes which may be covered by general permit are those where point sources:

1. Perform the same or substantially similar operations;
2. Produce the same types of wastewater streams;
3. Employ the same or substantially similar wastewater treatment operations to control specific pollutants;
4. Are subject to the same effluent limitations and monitoring requirements; and

5. In the opinion of the department, are more appropriately controlled under a general permit than under individual permits.

Note: Section NR 210.20 requires permit authorization for all satellite sewage collection systems.

(c) General permit issuance shall be subject to the public notice and hearing procedures of subs. (8) and (10).

(d) General permits shall have effective terms to a maximum of 5 years from the date of issuance.

(2) A general permit may cover more than one class or category of discharge, or more than one area of the state, provided the permit clearly identifies the conditions applicable to each included class or category, or each specific area of the state. General permits may contain effluent limitations, monitoring requirements, reporting requirements, general conditions and applicability criteria.

(3) Individual dischargers are not required to submit formal WPDES permit applications to be eligible for coverage under a general permit. On a case-by-case basis the department may by letter require a discharger to submit information regarding a wastewater discharge which is to be covered by a general permit. On a case-by-case basis the department may by letter require a discharger to submit a notice of intent to be covered by a general permit. Following receipt of a complete notice of intent the department shall issue a determination on whether a discharger is covered by a general permit.

(4) The department shall withdraw a point source from coverage by a general permit and issue an individual permit upon written request of the discharger.

(5) The department may require any point source covered by a general permit to apply for and obtain an individual permit. Any person may submit a written request that the department take action under this subsection. Situations in which an individual permit may be required include:

(a) The point source is a significant contributor of pollution or the point source is more appropriately regulated by an individual permit;

(b) The point source is not in compliance with the terms and conditions of the general permit;

(c) A change occurs in the availability of demonstrated technology or practices for the control or abatement of pollutants from the point source or class of discharger;

(d) Effluent limitations or standards are promulgated for a point source or class of point sources covered by the general permit and are different than the conditions contained in the general permit;

(e) A water quality management plan containing requirements applicable to the point source is approved.

(6) When an individual WPDES permit is issued for discharges which would otherwise be covered by a general permit, the applicability of the general permit to such discharges is terminated on the effective date of the individual permit.

(7) An owner or operator who holds an individual WPDES permit for discharges which are eligible for coverage by a general permit may request that the department revoke the individual permit.

(8) Any general permit issued by the department may, after an opportunity for hearing, be modified, revoked and reissued, or terminated. Whenever the department finds there is a need to modify, revoke and reissue, or terminate a general permit, a public notice shall be made allowing 30 days for public comment prior to the intended date of final action. Any public notice shall:

(a) Be published as a class 1 notice under ch. 985, Stats., in all counties where dischargers may be located, or in the official state newspaper as defined in s. 985.04, Stats., and on the department's Internet Web site.

(b) Be mailed to any person, group, agency or unit of government upon request.

(c) Contain a description of the discharge types or categories or classes of dischargers covered by the general permit.

(d) Identify the waters of the state and areas of the state to which the general permit is applicable.

(e) Contain a description of the proposed action.

(f) Identify how and where to obtain additional information, submit written comments or request a public informational hearing.

(g) Describe the procedures to be used to formulate a final determination on the proposed action.

(h) Be distributed for comment to the U.S. environmental protection agency, the U.S. army corps of engineers, U.S. fish and wildlife service, and other states potentially affected by the discharges. This subsection shall only apply to general permits which authorize discharges to surface waters.

(i) Be distributed to any county and regional planning commission in any area of the state where discharges under the general permit may be authorized.

(j) Be mailed to all facilities known by the department to be covered by a general permit in the case of termination of a general permit to a class or category of discharge.

(k) To satisfy the mailing requirement of this of this section the department may either send a paper copy of the document in the US mail, or transmit the document electronically by email, provided the person or group does not object to electronic mailing. The document mailed may reference the department's Internet Web site where additional referenced material can be accessed.

(9) (a) General permits may be reissued following public notice and opportunity for hearing. The public notice procedures of sub. (8) shall apply to general permit reissuance. Whenever possible, the department shall reissue general permits prior to the expiration date of the previous general permit to prevent the possibility of dischargers being unpermitted. Even though dischargers under a general permit are not required to submit an application for reissuance, the provisions of s. 227.51 (2), Stats., shall apply as though an application had been submitted by the class or category of dischargers covered by the permit.

(b) If the department intends to terminate the coverage of a general permit to a class or category of discharger upon the expiration of the general permit, the action shall follow the procedural requirements under sub. (8).

(10) (a) The department shall hold public informational hearings on any proposed general permit issuance, reissuance, modification, revocation and reissuance, or termination if the department determines that there is significant public interest in holding a hearing or upon the petition of 5 or more persons. Petitions shall indicate the interest of the petitioners and the reasons why a hearing is warranted. Requests for hearings under this section shall be submitted so that the requests will be received by the department during the 30-day comment period provided by the public notice of the proposed action.

(b) Public notice of any hearing held under this section shall be made in accordance with the requirements of sub. (8).

(c) Hearings shall be held at locations which are most convenient geographically to the largest number of petitioners.

(d) Procedures for the appearance at, and conduct of, hearings held under this section shall be in accordance with ss. NR 203.08 through 203.11.

(e) The department shall make a final determination on the proposal to issue, reissue, modify, revoke and reissue, or terminate a general permit based upon the consideration of statements by the public, government agencies and any other pertinent information. A notice of final determination shall be prepared and circulated in accordance with s. NR 203.13.

(f) Hearings held under this section are not contested cases under s. 227.01 (3), Stats.

History: Cr. Register, September, 1984, No. 345, eff. 10-1-84; am. (1) (b), (5) (intro.) and (a), Register, April, 1987, No. 376, eff. 5-1-87; correction in (10) (f) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1987, No. 376; CR 14-027: am. (8) (intro.), (a), (h), (j), cr. (8) (k), am. (9), (10) (a), (e) Register July 2015 No. 715, eff. 8-1-15.

NR 205.10 Best management practices. Best management practices to control or abate the discharge of pollutants shall be included in a WPDES permit issued by the department in all of the following cases:

(1) When the permit is authorized under section 33 USC 1314(e) for the control of toxic pollutants and hazardous substances from ancillary industrial activities.

(2) When numeric effluent limitations are infeasible.

(3) When the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of ch. 283, Stats. and the Clean Water Act.

Note: Chapters NR 216 and 243 also include regulations requiring best management practices for WPDES permittees for control of stormwater discharges and concentrated animal feeding operations (CAFOs).

History: CR 17-002: cr. Register April 2018 No. 748, eff. 5-1-18.

NR 205.14 Schedules of compliance. A WPDES permit may, when appropriate, include a schedule of compliance leading to compliance with permit limitations. Any schedule of compliance for water quality based effluent limitations for phosphorus shall be consistent with all of the requirements in s. NR 217.17. Any other schedule of compliance included in a permit shall be consistent with all of the requirements in s. NR 106.117.

History: CR 17-002: cr. Register April 2018 No. 748, eff. 5-1-18.