

DATE: November 13, 2009

FILE REF: WT-15-09

TO: Natural Resources Board

FROM: Matthew J. Frank

SUBJECT: Proposed revision to chs. NR 102, 103, 105, 106, 108, 110, 114, 200, 203, 205, 210, 214, 299, 328, 341 and 812, Wis. Adm. Code to fix typographical errors, make minor modifications or clarification, ensure consistency with federal regulations, code reference update, or make technology updates for rules affecting the Bureau the Watershed Management.

1. Why These Rules are Being Revised

The Bureau of Watershed Management has not previously updated rules for clean-up of errors or common housekeeping changes needed to keep their rules current. There are many codes included in this package for that reason. Future housekeeping clean-up rule packages will be much smaller once these rules are updated.

2. Issues addressed by this rule

There are 134 proposed changes to the rules. These changes have been placed in the "Rationale Table" into categories. These categories include:

- a. Provide Clarity
- b. Typographical Errors
- c. Updates for Technological Advances
- d. Consistency with Federal Regulatory language/state statute/other administrative rules
- e. Minor modifications

3. Summary of the Rules

NR 102 is the chapter that contains the listing waterbodies for outstanding or exceptional resource waters. There are several recommended pages of changes (13 pages in the ORDER). This code has primarily been changed to reflect typographical errors in the original listing of these waters, or if the water exists in more than one county, we have added the other county. To be consistent with the addition of two Wild Rivers to State Statute s. 30.26 in early 2009, language was refined and portions of these two existing ORW waters were moved to the Wild Rivers section of NR 102; however, this does not affect their status as ORW. With the exception of the 2009 statutory additions, there are no additions of new waterbodies, only corrections to the ones currently on the list.

NR 103 is the chapter that contains Water Quality Standards for Wetlands and the changes proposed are technical changes to reflect s. 281.36, Wis. Stat., a statute that was adopted after the rule went into effect.

NR 105 is the chapter that contains surface water quality criteria and secondary values for toxic substances. The changes requested for this chapter are typographical errors or values that have been updated because of new analytical methods. The changes to Table 9 in ch. NR 105 are done to reflect

changes to Federal drinking water standards and are consistent with changes that were made in ch. NR 809. All other numerical changes are typographical errors.

NR 106 is the chapter which contains procedures for Calculating Water Quality Effluent Limits for substances discharged to surface waters. Changes to this chapter are primarily for clarification or typographical errors.

NR 108 is the chapter which outlines the Requirements for Plans and Specifications submittals for reviewable projects and operations of community water systems, sewerage systems and industrial wastewater facilities. The changes include technology updates requesting electronic submittals in addition to paper copies of final plans and specifications. To be consistent with federal regulations, the department proposes modification to s. NR 108.04 (5).

NR 110 is the chapter containing requirements for Sewerage Systems. Most of this rule package contains changes to this chapter, which needs to be updated primarily because of confusion on how to implement this rule (22 pages in the ORDER). Many changes are recommended to clarify the rule; other changes are because of technological updates. Revisions to this chapter are proposed to revise and clarify requirements for lift station design, influent and effluent flow monitoring, and to clarify language which has been commonly misunderstood. While these changes are voluminous, they reflect current practice and are not substantial, they are minor changes that make this rule more understandable and easier to implement. In 1997, the Department prepared draft code revisions for lift station requirements in ch. NR 110, and conducted a public hearing and obtained public comments. But the rule making effort was then placed on hold due to workload issues, and the code revision process was effectively terminated prior to promulgation. Many of the NR 110 code changes now being proposed were obtained from this 1997 work effort.

NR 114 is the chapter for Certification Requirements for Waterworks, Wastewater Treatment Plant, Septage Servicing and Water System Operations. Proposed changes to this chapter include adding a "Master Operator" category to the Septage Servicing subchapter II. This is a category that the stakeholders have asked for to develop a succession of responsibilities. This has been an issue for several years and this code change will help satisfy the needs of the stakeholders.

NR 200 is the chapter for Application for Discharge Permits and Water Quality Standards Variances. The proposed change to this rule is a technological update for the submission of permit applications on the web-based application system. The other changes are typographical or to be consistent with federal regulations.

NR 203 is the chapter for WPDES Public Participation Procedures. The proposed change to this code is to make it consistent with federal regulations.

NR 205 is the chapter for General Provisions in WPDES permits. The proposed technology update is to require electronic submission of discharge monitoring reports. Other changes are clarification of unscheduled bypassing of wastewater or to be consistent with federal regulations.

NR 210 is the chapter for Sewage Treatment Works. The minor clarification changes are to reflect date changes or clarification of terms. A modification is proposed to require that emergency operating provisions (such as stand-by generator or pump) be provided for all wastewater pumping stations.

NR 214 is the chapter for Land Treatment of Industrial Liquid Waste By-Product Solids and Sludges. One proposed change is to clarify subsurface systems to be consistent with ch. COMM 83.

NR 299 is the chapter containing the Water Quality Certification requirements. The proposed changes to this chapter are technical changes to reflect s. 281.36, a statute that was adopted after the rule went into effect and to provide clarity with respect to the original intent of the rule.

NR 328 is the chapter for Shore Erosion Control Structures in Navigable Waterways. The recommended changes are to provide clarification or typographical changes.

NR 341 is the chapter for Grading on the Bank of Navigable Waterways. The proposed changes to this rule are to provide typographical changes.

NR 812 is the chapter for Well Construction and Pump Installation. The proposed change to this rule is to correct the code reference to NR 110 made in this proposed rule package.

Proposed Changes: Please see the attached “Rationale Table” for each individual proposed change to these rules.

4. How this Proposal Affects Existing Policy

The Department has made a commitment to make Administrative Rules clear. These proposed changes will allow up to implement our rules more consistently and accurately.

5. Has the Board dealt with these issues before?

The Bureau of Watershed Management has not gone before the NRB to request “housekeeping” changes to rules affecting our program. Most of these rules have not been changed or updated for decades. This is not unique; other programs routinely bring “housekeeping” packages before the Board.

6. Who will be impacted by the proposed rules? How?

In addition to those who are already required to comply with the Administrative Rules, these proposed changes will make the rules less confusing and easier to understand. None of these proposed rules will be burden to the regulated community or the public.

7. Environmental Analysis

The Bureau of Environmental Analysis and Review has determined that these rule revisions are a Type III action under ch. NR 150, Wis. Adm. Code, and no environmental analysis is required.

8. Small Business Analysis

The proposed rule revisions are not expected to have a significant economic impact on small business.

