

Report to  
Legislative Council Rules Clearinghouse  
NR 106, 200, 205, 207, 210, 220, 221, 225, 228, 231, 236, 239, 240, 245, 247, 250, 258,  
261, 268, 269, 275, 276, 277, 280, 281, 284, 286, 290, 294, 295, & 296, Wis. Adm. Code  
Natural Resources Board Order No. WT-12-12

Wisconsin Statutory Authority

Sections 227.11(2)(a), 283.11, 283.13, 283.15, 283.19, 283.21, 283.31, 283.37, 283.45, 283.53, 283.55 and 283.83 Stats.

Federal Authority

40 CFR 122.2, 122.21 (g, i, k, & o), 122.44(d, k, and l), 122.47, 122.50, and 125.30-32  
40 CFR Part 132, Appendix F, Procedure 9  
Clean Water Act Sections 303 (d) (4) and 402 (o)

Comparison of Adjacent States

All the other U.S. EPA Region 5 states (Illinois, Indiana, Michigan, Minnesota and Ohio) and Iowa are subject to the U.S. EPA regulations because they have approved NPDES permit programs. Wisconsin's rules for permitting, limit calculation, variances, and other related procedures will be consistent with EPA regulations following passage of this rule package and should be similar for Great Lakes dischargers in the other Region 5 states.

Federal requirements applicable to the Great Lakes do not apply in the state of Iowa, because they do not have discharges to the Great Lakes. Although Wisconsin's program is consistent with federal law, it is not directly comparable to the Iowa implementation program, as Wisconsin is subject to these additional federal requirements for the Great Lakes Basin

Court Decisions Directly Relevant

Case No. 15-CV-2409: Midwest Environmental Defense Center, Inc. v. Wisconsin Department of Natural Resources, et al. (State of Wisconsin, Circuit Branch 10, Dane County).

Analysis of the Rule - Rule Effect - Reason for the Rule

In a letter dated July 18, 2011, the U.S. Environmental Protection Agency (EPA) identified 75 potential issues with Wisconsin's statutory and regulatory authority for the Wisconsin Pollutant Discharge Elimination System (WPDES). The effort to address the 75 issues was divided into 9 rule packages. This package generally contains issues related to the establishment of effluent limits in permits. It addresses New Source Performance Standards (NSPS) and other effluent limitation guidelines, expression of limits in WPDES permits when a permittee disposes of pollutants into publicly owned treatment works or by land application, general reasonable potential procedures, best management practices in permits, general compliance schedule provisions, permit application requirements for industrial dischargers, antibacksliding provisions, fundamentally different factors variances, expedited variance applications, minor modifications to definitions and other minor revisions.

The department is required to make these changes, and the timeline for rulemaking is governed by a court stipulation agreed upon by the State of Wisconsin and the Midwest Environmental Defense Center (MEDC v. WDNR Case No. 15 CV 2409).

The rule may have minor economic impacts on small businesses in isolated cases, but no broad, significant impacts are expected. Economic impacts are not expected because the department is already required under state statutes to include conditions in permits that are consistent with federal regulations, and, therefore, most of the revisions are consistent with existing department practices.

Agency Procedures for Promulgation

The Department is holding a public comment period until March 1, 2017. This will include two public hearings at 2 P.M. on February 6, 2017 in the DNR Green Bay Office (2984 Shawano Ave, Green Bay, WI 54313) and at 2 P.M. on February 7, 2017 at the DNR Central Office (101 S. Webster St., Madison, WI 53707). The Department will also host an informational webinar on the proposed rule changes on February 8, 2017 at 2 P.M. (email Jason Knutson at

[Jason.knutson@wisconsin.gov](mailto:Jason.knutson@wisconsin.gov) in order to receive an access link to the webinar).

Based on comments received during the comment period and at the public hearings, the board order may be revised. The Natural Resources Board will then decide whether to adopt the final board order and rules.

If adopted, the board order will be sent to the Governor's office for approval. Following Governor approval, the board order is sent for legislative review. Finally, the board order will be signed by the Department Secretary and filed with the LRB. The rule is then published and becomes effective.

Description of any Forms (attach copies if available)

None

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