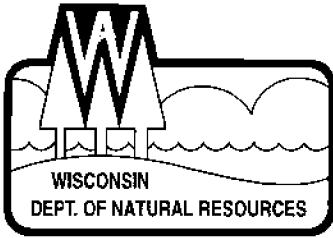


# Clearinghouse Rule 00-087

## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES



Tommy G. Thompson, Governor  
George E. Meyer, Secretary

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STATE OF WISCONSIN )  
 ) ss  
DEPARTMENT OF NATURAL RESOURCES )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. WT-24-00 was duly approved and adopted by this Department on October 25, 2000. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 7 day of December, 2000



(SEAL)

*George E. Meyer*  
George E. Meyer, Secretary



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

The State of Wisconsin Natural Resources Board proposes an order to repeal NR 101.13 (8), (9), and 101.31; to amend NR 101.03(4) and (5), 101.13(intro.), (1), (3), (5)(c); and to create NR 101.03(2m) and 101.13(4)(e) and (12) relating to the wastewater fee program

WT-24-00

Analysis Prepared by the Department of Natural Resources

Statutory authority: s. 299.15, Stats.

Statutes interpreted: s. 299.15, Stats.

The proposed revisions to ch. NR 101, the wastewater fee rule, implement the 1999 Wisconsin Act 9 revisions to s. 299.15, Stats. The Act raises the revenue cap from \$7,450,000 in calendar year 1999 to \$7,925,000 in calendar year 2000 and beyond. The Act also calls on the Department of Natural Resources to develop a performance-based approach, using a 5-year rolling average, for fees beginning with calendar year 2000.

The department initiated an External Advisory Committee (EAC) to develop proposed rules to implement the new legislation. The short timeline for implementing the Act did not permit a thorough reassessment of the wastewater fee rule. Within the current rule, however, the EAC developed a workable solution to the performance-based requirement. The attached rule would result in a direct relationship between discharge levels and WPDES limits – and wastewater fees. Increases in discharge levels would result in higher fees, while decreases in discharges would result in lower fees. This is accomplished by adopting the 1999 adjustment factors, 2.4510 for municipal discharges and 5.0492 for industrial dischargers, for fees beginning with calendar year 2000 and beyond. The proposed rule language meets the 5-year rolling average requirement by averaging discharge data generated since calendar year 2000. If five years of data are not available, the 5-year rolling average will use available data.

The department is also proposing a fee rate for phosphorus of \$0.34 per pound. This recognizes the technology-based aspect of ch. NR 217 limits and proposes a rate more in line with the environmental impact of phosphorus.

The department also proposes making a number of editorial changes to keep the rule compact and current.

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**SECTION 1.** NR 101.03(2m) is created to read:

NR 101.03(2m) "5-year rolling average" means the average of data from the current year plus the previous 4 years of data available since the beginning of calendar year 2000. Where 5 years of data is not available, the 5-year rolling average means the average of data from the current year plus any available data from the previous 4 years since the beginning of calendar year 2000.

**SECTION 2.** NR 101.03(4) and (5) are amended to read:

NR 101.03(4) "Limit of detection" ~~means the lowest concentration level that can be determined to be significantly different from a blank~~ has the meaning specified in s. NR 149.03(15).

(5) "Limit of quantitation" ~~means the level above which quantitative results may be obtain with a specified degree of confidence~~ has the meaning specified in s. NR 149.03(16).

**SECTION 3.** NR 101.13(intro.), (1) and (3) are amended to read:

**NR 101.13 Wastewater fees.** (intro.) An annual wastewater fee shall be assessed to each facility holding a specific WPDES permit and reporting discharges during the calendar year:

(1) The annual wastewater fee shall consist of the greater of the base fee under sub. (2) or a discharge fee under sub. (3). The effect of this section is to assess fees to each holder of a specific WPDES permit.

(3) The discharge fee shall be the total of fees for individual pollutants determined by multiplying the 5-year rolling average of the product of the effluent quantities from s. NR 101.12(5) times the applicable limit rate determined in accordance with sub. (4), times the ~~applicable~~ adjustment factor ~~determined in accordance with sub. (8).~~ The adjustment factor for municipal dischargers is 2.4510 and for other dischargers is 5.0492.

Note: The adjustment factors identified in sub. (3) were calculated and applied to calendar year 1999 fees to satisfy the requirement in s. 299.15(3)(c)3, Stats.

**SECTION 4.** NR 101.13(4)(e) is created to read:

NR 101.13(4)(e) An effluent standard based limit under ch. NR 217. The limit rate for phosphorus shall be \$0.34 per pound.

**SECTION 5.** NR 101.13(5) (c) is amended to read:

NR 101.13(5)(c) Effluent limits established in accordance with ch. NR 217 ~~, except that until 90% of affected dischargers receive such limits or a variance from the limits there shall be no fees for the discharge of phosphorus.~~

**SECTION 6.** NR 101.13(12) is created to read:

NR 101.13(12) The department shall hold at least one public hearing under s. 299.15(5), Stats., in any year where the total number of facilities subject to the provisions of this chapter changes by more than 20% compared with the total from the previous year, or where changes in any limit rate results in fees for a pollutant of more than a 30% of the total fees for that year.

**SECTION 7.** NR 101.13(8), (9) and NR 101.31 are repealed.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on October 25, 2000.

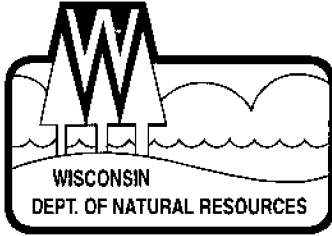
The rule contained herein shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin December 7, 2000

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer  
George E. Meyer, Secretary

(SEAL)



**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

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George E. Meyer, Secretary

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December 5, 2000

Mr. Gary L. Poulson  
Assistant Revisor of Statutes  
131 West Wilson Street - Suite 800  
Madison, WI

Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. WT-24-00. These rules were reviewed by the Assembly Committee on Environment and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

George E. Meyer  
Secretary

Enc.

