

CR 85-10

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

RECEIVED

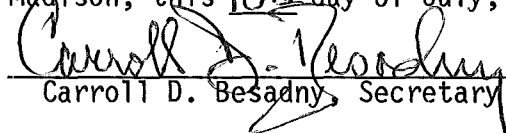
STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) ss

JUL 15 1985
3:20 PM
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carroll D. Besadny, 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. WQ-1-85 was duly approved and adopted by this Department on March 27, 1985 and June 26, 1985. 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 General Executive Facility #2 in the City of Madison, this 10th day of July, 1985.


Carroll D. Besadny, Secretary

(SEAL)

7045H

9-1-85

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

.....
IN THE MATTER of repealing and recreating .
s. NR 212.11, and creating s. NR 212.40(8).
and NR of the Wisconsin Administrative .
Code pertaining to water quality based .
allocations of pollutant discharges to .
waters of the state .
.....

WQ-1-85

Analysis Prepared by Department of Natural Resources

Chapter NR 212, Wis. Adm. Code, allocates to municipal and industrial point source dischargers amounts of the class of pollutants known as BOD₅ allowable in certain streams in the state. The principal changes involve procedures for temporary and long term reassignments of allocations between dischargers. The revisions to ss. NR 212.11 and NR 212.40 address reallocation of pollutant loadings from an entity no longer discharging to one or more existing dischargers, or resulting from rerouting of waste streams between municipal and industrial wastewater treatment plants.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 227.011 and 227.014(2)(a), Stats., the State of Wisconsin Natural Resources Board hereby repeals and recreates, and creates rules interpreting ss. 147.04(5), 147.05 and 147.25, Stats., as follows:

SECTION 1. NR 212.11 is repealed and recreated to read:

NR 212.11 MODIFICATIONS AND TEMPORARY REALLOCATION OF POINT SOURCE ALLOCATIONS. (1) When a discharger to a publicly-owned point source covered by this chapter applies to receive a separate WPDES permit or when a person with a WPDES permit applies to terminate its direct discharge in order to contribute to a publicly-owned point source covered by this chapter, permit modification procedures contained in ss. 147.025 and 147.03(2), Stats., shall apply. Any reallocation pursuant to such action shall only affect the applicant and the publicly-owned point source to which it discharges.

(2) Procedures for temporary reallocation for individual stream segments are identified in ss. NR 212.40 through 212.70. Notwithstanding procedures identified in ss. NR 212.40 through 212.70, temporary reallocation of wasteload allocations may be allowed under the following conditions:

(a) Reallocations approved by the department shall be for at least one calendar year and shall expire at the end of the affected discharger's WPDES permit term;

(b) Reallocations shall account for differences in waste characteristics and location of discharge as determined by the department and may not adversely affect a downstream segment's wasteload allocation; and

(c) Reallocations may not affect baseline loads in affected stream segments but may result in an adjustment to total maximum daily loads identified in ss. NR 212.40 through 212.70.

(3) Reallocations may not be approved by the department until the discharger applying for a reallocation demonstrates through the use of a toxicity test approved by the department that such reallocation will not result in toxicity in the receiving water.

(4) Prior to department approval of a reallocation, all parties to the transfer shall waive all rights under s. 227.14, Stats., to retain any reallocation beyond the expiration date of the WPDES permit of the dischargers applying to receive a reallocation. The waiver shall be effectuated through incorporation into the WPDES permit of the affected discharger.

SECTION 2. NR 212.40(8) is created to read:

NR 212.40(8) REALLOCATION OF AVAILABLE WASTELOAD ALLOCATIONS.

(a) Wasteload allocations may be reallocated under par. (b) when a wasteload allocated permit expires, is revoked or surrendered for the following purposes:

1. Provide for the wasteload needed due to the reactivation of a facility that had closed and made the wasteload available.
2. Provide the wasteload for new production increases by existing dischargers.
3. Provide the wasteload for production by a new discharger.
4. Provide for existing dischargers to raise their existing allocations in the appropriate stream segment towards categorical effluent limitation levels.

(b) The following procedures shall be used to reallocate available wasteloads:

1. Upon notification by the department of an available wasteload allocation pursuant to par. (a), the designated management agency shall publish a notice of wasteload availability.
2. A 6 month period shall be provided for persons to declare interest in available wasteload allocations.
3. Within 60 days of the end of the 6 month period the designated management agency shall conduct a public meeting regarding the proposed reallocation.
4. The designated management agency shall recommend a reallocation proposal to the department.
5. The department shall notify the designated management agency of acceptance or rejection of the recommendation within 6 months.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 27, 1985 and June 26, 1985.

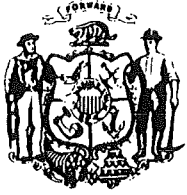
The rules contained herein shall take effect as provided in s. 227.026(1) (intro), Stats.

Dated at Madison, Wisconsin

July 10, 1985
STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)
4742J



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

July 10, 1985

IN REPLY REFER TO: 1020

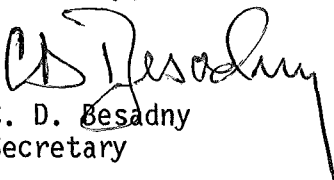
Mr. Orlan L. Prestegard
Revisor of Statutes
411 West
C A P I T O L

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. WQ-1-85. These rules were reviewed by the Assembly Committee on Environmental Resources and the Senate Committee on Energy and Environmental Resources pursuant to s. 227.018, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

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

Sincerely,


C. D. Besadny
Secretary

Enc.

7045H