

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 sub. (3) (e).

(h) *Planned changes.* In accordance with ss. 147.02 (4) (b) and 147.14 (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.

(i) *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 frequent 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 subpar. 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 subpar. a., b. or c., which the department has included as a special condition to the permit.

(j) *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.

(k) *Bypass*. The permittee may bypass waste treatment facilities if this is necessary for the essential maintenance of the facilities and if the bypass does not exceed permit effluent limitations. The permittee may also bypass if the bypass is due to runoff in excess of the 10 year, 24 hour rainfall event and the bypass is designated as a specific discharge point in the WPDES permit. All other bypasses of waste treatment facilities, including diversion of wastewater from land disposal systems to surface waters, are prohibited unless the following conditions are met:

1. The bypass is necessary to prevent loss of life, personal injury or severe property damage;
2. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime; and
3. The permittee submitted written notice 10 days before the date of the bypass and the department's district office wastewater supervisor had approved the bypass in writing prior to its occurrence; or
4. In the event of an unanticipated bypass, the permittee notified the department verbally within 24 hours and in writing within 5 days of each unanticipated bypass.

History: Cr. Register, September, 1984, No. 345, eff. 10-1-84; cr. (2) (d) 4., Register, October, 1986, No. 370, eff. 11-1-86.

NR205.08 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 of point sources may include any of the following:

1. Facilities which perform the same or substantially similar operations and produce the same or substantially similar wastewater streams.
2. Facilities which produce the same types of wastewater streams.
3. Facilities which employ the same or substantially similar wastewater treatment operations to control specific pollutants.

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

Register, October, 1986, No. 370

(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 if:

(a) The point source is a significant contributor of pollution or if the point source is more appropriately regulated by an individual permit. Any person may submit a written request that the department take action under this section;

(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, suspended or revoked, in whole or in part. Whenever the department finds there is a need to modify, suspend or revoke 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.

(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, 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 revocation or suspension.

(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. 227.14 (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 be taken as a suspension or revocation under sub. (8).

(10) (a) The department shall hold public informational hearings on any proposed general permit issuance, modification, suspension, revocation or reissuance 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, modify, suspend, revoke or reissue 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 (2), Stats.

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