

Chapter NR 101

REPORTS AND FEES FOR WASTEWATER DISCHARGES

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Note: Chapter NR 101 as it existed on December 31, 1977 was repealed and a new chapter NR 101 was created effective January 1, 1978. Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1997, No. 500.

NR 101.01 Purpose. The purpose of this chapter is to establish, pursuant to s. 299.15, Stats., requirements for submission of reports and payment of wastewater fees by persons discharging industrial or municipal wastewaters or other discharges requiring a WPDES permit.

Note: This chapter does not establish any limitations on discharges of wastewaters. Persons owning or operating facilities having such discharges remain subject to any lawful limitations on such discharges imposed in accordance with federal, state or local regulatory programs. Air emissions fee and reporting requirements are contained in chs. NR 410 and 438, respectively.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; correction made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1985, No. 358; am. Register, May, 1993, No. 449, eff. 6-1-93; am. Register, February, 1994, No. 458, eff. 3-1-94.

NR 101.02 Applicability. The provisions of this chapter are applicable to persons required to submit reports to the department as set forth in s. NR 101.11. This section requires reports of discharges of industrial wastes and toxic and hazardous substances which exceed specified reporting levels.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. Register, May, 1993, No. 449, eff. 6-1-93.

NR 101.03 Definitions. The following definitions are applicable to terms used in this chapter:

(1) "Cooling water" means any water which is used primarily for cooling of raw materials, products, or equipment.

(2) "Facility" means a publicly owned treatment works, or an operating plant or establishment carrying on any manufacturing activity, trade, or business on a common site, including similar such plants under common ownership or control located on contiguous properties. Plants or establishments under common ownership or control located on separate sites shall be considered separate and individual facilities.

(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.

(3) "Land disposal system" means an absorption or seepage pond, a ridge and furrow, a spray irrigation, a spray runoff, a sub-surface field absorption, a surface spreading, or other installation on a land area used for the disposal of effluent by absorption or percolation into the ground.

(4) "Limit of detection" has the meaning specified in s. NR 149.03 (41).

(5) "Limit of quantitation" has the meaning specified in s. NR 149.03 (42).

(6) "Major permittee" or "minor permittee" means any WPDES permit holder thus classified by the U.S. environmental protection agency in conjunction with the department under 40 CFR 122.2.

(7) "Municipality" means, as defined in s. 299.01 (8), Stats., any city, town, village, county, county utility district, town sani-

tary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

(8) "Person" means an individual, partnership, corporation, association, municipality, state agency, or interstate agency owning or operating a facility discharging wastewater to a surface water, to a land disposal system, or to a publicly owned treatment works.

(9) "Process waste water" means any water, except cooling water, which comes into direct contact with or results from the production or use of any raw material, service item, intermediate product, finished product, byproduct, or waste product, and may contain in solution or suspension various components of such raw materials, items or products.

(10) "Publicly owned treatment works" means a sewage treatment plant owned by a municipality and the sewerage system tributary thereto.

(11) "Sanitary waste water" means waste water associated with personal hygiene, food preparation, or cleaning but does not include waste water from commercial or bulk production of goods or services such as, but not limited to, laundromats, commercial laundries, carwashes, food production, or other manufacturing activities.

(12) "Surface water" means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, impounding reservoirs, marshes, water courses, drainage systems and other surface water, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and completely retained upon the property of a facility.

(13) "Wastewater" means any process waste water, cooling water, sanitary waste water, or other wastes whose discharge requires a WPDES permit, discharged to a surface water including such discharge through a storm sewer, to a land disposal system, or to a publicly owned waste treatment works.

(14) "WPDES permit" means a Wisconsin pollutant discharge elimination system permit issued by the department pursuant to ch. 283, Stats.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (3), Register, February, 1984, No. 338, eff. 3-1-84; correction made in (7) under s. 13.93 (2m) (b) 7., Stats., Register, October, 1985, No. 358; emerg. am. (1) and (2), eff. 2-5-92; am. (1), r. (12), (14) to (16), Register, May, 1993, No. 449, eff. 6-1-93; renum. (13) to NR 400.02 (59m), Register, June, 1993, No. 450, eff. 7-1-93; renum. (1), (3) to (6), (8) to (11) to be (8), (13), (12), (3), (10), (9), (1), (11) and (14) and am. (8) and (13), am. (2), cr. (4) to (6), Register, February, 1994, No. 458, eff. 3-1-94; cr. (2m), am. (4) and (5), Register, January, 2001, No. 541, eff. 2-1-01; corrections in (4) and (5) made under s. 13.92 (4) (b) 7., Stats.

NR 101.11 Required wastewater reports. The reporting requirements of the WPDES permit, for discharges to surface or ground waters, or requirements promulgated under s. 283.21 (2), Stats., for discharges to a publicly owned treatment works, shall be used as the reporting requirements under this chapter.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; emerg. am. (2) and (4), eff. 2-5-92; emerg. am. (6), eff. 2-12-92; r. and recr. Register, February, 1994, No. 458, eff. 3-1-94.

NR 101.12 WPDES information reporting. The department shall calculate effluent quantities for those pollutants whose discharge is regulated by the WPDES permit:

(1) The department shall use the reports submitted under the reporting requirements of the permit for each calendar year.

(2) For the purposes of this section, an analytic result reported as less than the limit of quantitation shall be applied as a zero result.

(3) The daily flow to be used in calculating effluent quantities shall be one of the following:

(a) The monthly average flow, for persons required to monitor daily flows and report monthly average flows.

(b) The daily flow, for persons required to monitor weekly, monthly or quarterly flows and report daily flows.

(4) The daily concentrations to be used in calculating effluent quantities shall be one of the following:

(a) The monthly average concentration, for persons required to monitor daily discharge concentrations and report monthly averages.

(b) The representative concentrations, for persons required to monitor concentrations on a weekly, monthly or quarterly basis and report a single representative value.

(5) The department shall calculate the effluent quantities as pounds per month using the values from subs. (3) and (4) and all of the following:

(a) The department shall calculate effluent quantities for pollutants with effluent limits in effect for each month.

(b) Reported quantities shall be used in place of calculated quantities.

(c) For pollutants reported as concentrations, the effluent quantity shall be calculated as: the daily flow from sub. (3) (a) or (b), times the daily concentrations from sub. (4) (a) or (b), times 8.34, times the number of discharge days.

(d) For pollutants reported as quantities, the effluent quantities shall be calculated as one of the following:

1. The sum of reported quantities by month, where this represents the total discharge of the pollutant, or

2. The reported monthly average quantity times the number of discharge days.

(e) The number of discharge days shall be assumed to be the number of calendar days in each month, or the actual number of discharge days in each month where adequate information is available from the reported data to determine the number of discharge days.

(6) The department shall mail a summary report of its calculations to the reporting person by March 1 of each year. The purpose of this mailing is to provide the opportunity for the reporting person to verify the department's use of the reported data and calculation results. Persons may request adjustments to the calculation results on the summary report with supporting documentation. The summary report must be returned by April 1 and must identify the person verifying the data. The department shall notify the person of its findings, for exceptions only, by May 1.

(7) Quantities of substances present in water influent to a facility may be deducted from effluent quantities of such substances. To apply this deduction to municipal reporting the influent water shall be the raw water source for the public drinking water system serving the municipality, a well serving the wastewater treatment facility, or a representative private well. Facilities shall make this deduction the summary provided for their review under sub. (6). Influent quantities shall be determined using one of the following and subtracted from the effluent quantities calculated as in sub. (5) (c) except that the difference may not be a negative number:

(a) Influent quantities of BOD and total suspended solids shall be determined by samples taken over an operational day once per month, in lieu of more frequent monitoring, and averaged for the year. Influent quantities for each month shall be calculated as the

average influent concentration, times the daily flow under sub. (3), times 8.34.

(b) Influent quantities for other pollutants shall be determined by samples taken over an operational day once per quarter, in lieu of more frequent monitoring, and averaged for the year. Influent quantities for each month shall be calculated as the average influent concentration, times the daily flow under sub. (3), times 8.34.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; emerg. am. (2), (6) and (7), cr. (4) (c) 3., eff. 2-12-92; r. and recr. Register, February, 1994, No. 458, eff. 3-1-94.

NR 101.13 Wastewater fees. 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.

(2) The base fee shall be \$500 for facilities classified as a major permittee or \$250 for facilities classified as a minor permittee.

(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 adjustment factor. 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) (e) 3., Stats.

(4) The limit rate for each month of discharge shall be based on the limit from one of the following:

(a) An effluent limit expressed as a concentration for the discharge of a pollutant. The limit rate in dollars per pound for a pollutant is the inverse of the effluent limit when the effluent limit is expressed in units of milligrams per liter. If more than one such limit is in effect for the same pollutant in a permit, the limit which yields the highest limit rate shall be used.

(b) A water quality based effluent limit under s. 283.13 (5), Stats., and expressed in units of pounds per day for the discharge of a pollutant where no effluent limit under par. (a) is in effect for the same pollutant. A concentration factor expressed in units of milligrams per liter shall be calculated by dividing the mass limit by the product of the industrial annual average discharge flow, or municipal design flow, times 8.34. The limit rate in dollars per pound is the inverse of the concentration factor. If more than one water quality-based mass limit is in effect for the same pollutant in a permit, the mass limit which yields the highest limit rate shall be used for the rate calculation for that pollutant.

(c) A categorical effluent limit under s. 283.13 (2), Stats., and expressed in units of pounds per day for the discharge of a pollutant where there is no effluent limit under par. (a) for the same pollutant. The limit rate for BOD₅ shall be \$0.03 per pound, for total suspended solids shall be \$0.02 per pound, and for other pollutants shall be a rate calculated as in par. (b) substituting the categorical limit for water quality based effluent limit.

(d) Where a water quality based effluent limit and a categorical limit are in effect for the same pollutant in a permit, and there is no effluent limit under par. (a) for the pollutant, the water quality based effluent limit shall be used to calculate the limit rate as in par. (b).

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

(f) For groundwater discharges the limit rate shall be calculated as in par. (a), (b) or (c), except that the limit rate for BOD and total suspended solids shall be \$0.00 per pound and for nitrogen above the yearly crop nutrient uptake rate shall be \$0.10 per pound and for chloride shall be \$0.008 per pound. The crop nutrient uptake rate to be used for this paragraph shall be those published

in USGS-SCS-Wisconsin Section IV Technical Guide 633 table 207/87.

(5) For the purpose of calculating the limit rate, only those limits established under the following authorities may be used:

(a) Categorical limits established under s. 283.13 (1), (2) or (4), Stats., and chs. NR 220, 210 or 221 to 297.

(b) Effluent limits based on a numerical water quality criteria promulgated under ch. NR 105 and for which an effluent limitation has been calculated under ch. NR 106.

(c) Effluent limits established in accordance with ch. NR 217.

(d) Effluent limits established under subch. IV of ch. NR 106.

(e) Effluent limits established to protect groundwater quality based on numeric standards promulgated in ch. NR 140.

(6) Where an effluent limit for the discharge of a pollutant is a constituent of another limited pollutant, the most restrictive limit shall be used for the rate calculation.

(7) The maximum limit rate for each pollutant shall be \$2,500 per pound.

(10) The department shall mail statements annually to persons owning or operating facilities required to pay wastewater fees under this section.

(11) Wastewater fees payable under this section shall be paid to the department within 30 days of the statement date.

(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.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (8), Register, June, 1986, No. 366, eff. 7-1-86; emerg. am. (3) and (4), r. (6), renum. (7) and (8) to be (6) and (7) and am. (6), eff. 2-12-92; r. and recr. Register, February, 1994, No. 458, eff. 3-1-94; am. (2); Register, January, 1998, No. 505, eff. 2-1-98; **am. (intro), (1), (3) and (5) (c), cr. (4) (e) and (12), r. (8) and (9), Register, January, 2001, No. 541, eff. 2-1-01; correction in (5) (d) made under s. 13.93 (2m) (b) 7., Stats.**

NR 101.31 Discharge environmental fees. History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) and (2), Register, May, 1993, No. 449, eff. 6-1-93; correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1995, No. 477; **r. Register, January, 2001, No. 541, eff. 2-1-01.**