

Chapter NR 121

AREAWIDE WATER QUALITY MANAGEMENT PLANS

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NR 121.01 Purpose. Under the authority of ss. 144.025 (1) and (2), and 147.25, Stats., this chapter establishes regulations specifying policies, procedures, and requirements for Wisconsin's areawide water quality planning process. This process will result in the preparation throughout the state of areawide plans for managing the quality of state waters, including consideration of the relationship of water quality to land and water resources and uses. Under the above state statutory authority, the department of natural resources has the responsibility for the general supervision of this continuing water pollution control planning process. In areas of the state designated by the governor, the preparation of areawide water quality management plans is the responsibility of designated areawide water quality planning agencies. In the remaining areas of the state, the department will prepare areawide water quality management plans. The purpose of this planning process is to systematically evaluate alternative means of achieving state and federal water quality goals and related standards. This planning process integrates consideration of both the technical measures for water pollution abatement and the management arrangements necessary for implementing abatement measures. Public participation will be provided for throughout plan development.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 121.02 Applicability. This chapter is applicable to areawide water quality management plans as prepared by both the state and designated areawide water quality planning agencies.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 121.03 Definitions. (1) "Areawide water quality management plan" (also: areawide plan, areawide waste treatment management plan) means a plan for managing, protecting and enhancing water quality which considers the interrelationship of water quality and land and water resources on an areawide basis (hydrologic, political, or other).

(2) "Areawide water quality management plans for designated areas" means areawide water quality management plans prepared by agencies designated by the governor in areas of the state similarly designated.

(3) "Areawide water quality management plans for nondesignated areas" means areawide water quality management plans prepared by the department for all areas of the state not designated by the governor.

(4) "Best management practices" as defined in s. 144.25 (2) (a), Stats., means practices, techniques or measures, identified in areawide water quality management plans, which are determined to be the most effective, practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(5) "Cost-effectiveness analysis" means a systematic comparison of alternative means of meeting state water quality standards, effluent limitations or other treatment standards in order to identify the alternative which will minimize the total resources costs over the planning period. These resources costs include monetary costs and environmental as well as other non-monetary costs.

(6) "Critical flow condition" means the annual minimum 7-day mean low flow which occurs on an average once in 10 years on any given river or stream segment.

(7) "Department" means the department of natural resources.

(8) "Designated management agency" means any agency designated in an areawide water quality management plan having responsibility for implementing specific plan recommendations. This may be done through direct activities of the designated management agency or through delegation to other agencies or units of government.

(9) "Effluent limitation" as defined in s. 147.015 (4), Stats., means any restriction established by the department, including schedules of compliance, on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into the waters of this state.

(10) "Management agency" means any agency responsible for plan implementation by its own direct activities, or any agency responsible for overseeing the performance of any person or entity through regulatory or other means, or any agency that reviews or coordinates overall water quality management agency actions.

(11) "Point source", as defined in s. 147.015 (8), Stats., means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants may be discharged either into the waters of this state or into a publicly owned treatment works. "Point source" shall not include diffused surface drainage or any ditch or channel which serves only to intermittently drain excess surface water from rain or melting snow and is not used as a means of conveying pollutants into waters of the state. "Point source" shall not include uncontrolled discharges composed entirely of storm runoff when these discharges are uncontaminated by any industrial or commercial activity, unless the particular storm runoff discharge has been identified by the department as a significant contributor of pollution.

(12) "Priority watershed" means a watershed of manageable size, delineated in the areawide water quality management plan and selected according to the procedures specified in section NR 120.07, Wis. Adm. Code.

(13) "Public participation process" means those activities developed for involving individual members of the public, local governmental officials, and interest groups in the areawide water quality management planning process. These activities include: the dissemination of information to the public, outreach activities to identify interested members of the public, and the actual involvement of the public in the decision-making process which leads to the preparation and implementation of an areawide water quality management plan.

(14) "Residual wastes" means waste materials resulting from the treatment of wastes or wastewater.

(15) "Sewer service area" means that area presently served and anticipated to be served by a sewage collection system.

(16) "Total maximum daily load" means the amount of a pollutant (s) specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still insure attainment of the applicable water quality standard. There are 4 components to the total maximum daily load: point source allocation, nonpoint source allocation, reserve capacity and margin of safety.

(17) "Waste load allocation" means the assignment of a portion of the total maximum daily load to each of the discharges to a water quality limited segment, such that the summation of these individual loadings does not exceed the total maximum daily load.

(18) "Water pollution," as defined in s. 147.015 (19), Stats., means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

(19) "Water quality standards" means statements established by the department pursuant to s. 144.025 (2) (b), Stats., of the physical, chemical and/or biological characteristics of a water which must be maintained to make it suitable for specified uses.

(20) "Water quality limited segment" means a specified portion of a receiving water for which categorical effluent limitations representing best practicable control technology currently available and secondary treatment are not stringent enough to attain the applicable water quality standard.

(21) "Watershed" means a hydrologically related land unity delineated for the purpose of instituting water quality management activities. Generally, the maximum size of a watershed should not exceed 200,000 acres.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 121.04 Structure of the state water quality management plan. (1) The state continuing planning process required under s. 147.25, Stats., consists of the development of, and regular review and revision of the state water quality management plan.

(2) The state water quality management plan consists of:

(a) Areawide water quality management plans for areas designated by the governor and prepared by agencies similarly designated.

(b) Areawide water quality management plans for nondesignated areas prepared by the department for the remainder of the state.

(c) A document describing the state's areawide water quality management planning process. This document shall describe the interrelationship among the various elements in the planning process. These elements include:

1. Areawide plans for designated and nondesignated areas of the state.

2. Topical studies which analyze water quality policies or issues of statewide concern.

3. Procedures for intergovernmental cooperation.

4. Procedures and mechanisms for plan implementation including:

a. Water quality standards and procedures for their revision.

b. Effluent limitations and wasteload allocations required to meet water quality standards.

c. An inventory and priority ranking of wastewater treatment plant construction needs for the purpose of distributing state and federal grant funds.

d. Controls for the disposition of residual wastes from wastewater treatment processes.

e. Best management practices for nonpoint sources of water pollution.

5. Procedures for plan revision.

6. Procedures for public participation.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 121.05 Content of areawide water quality management plans.

(1) Subject to section NR 121.05 (2), the following elements shall be included in each areawide plan prepared or approved by the department.

(a) *Planning boundaries.* The delineation in map form of the area for which the plan is being prepared.

(b) *Water quality assessment.* An assessment of existing and potential water quality problems within the planning area including a general assessment of both point and nonpoint sources of pollution contributing to the problems.

(c) *Inventories and forecasts:* 1. An inventory of municipal and industrial sources of pollutants.

2. Current demographic and economic growth data.

3. Population forecasts for 20 years in 5-year increments developed in the following manner:

a. The state population forecast for the state water quality management plan shall be consistent with that generated by the Wisconsin department of administration (DOA) and with the forecast provided by the U.S. department of commerce, bureau of economic analysis. (BEA).

b. Single county forecasts prepared by multi-county regional planning agencies (established in s. 66.945, Stats.) for the purpose of areawide planning shall be consistent with the range of the regional forecast generated by the Wisconsin department of administration (DOA). Single county forecasts prepared by single county planning agencies shall be expressed within the range of the county forecast generated by DOA. Single county forecasts inconsistent with the range of DOA regional forecasts and single county forecasts falling outside of the range provided by DOA may be used if special approval is obtained from the natural resources board.

c. The population forecasting methodology used by designated regional or county planning agencies to apportion county forecasts to forecasts for minor civil divisions (MCD) and individual sewer service areas shall be consistent with standards developed by DOA. If these agencies do not prepare MCD forecasts, the department will request that DOA do so. If DOA chooses not to prepare MCD forecasts, the department will do so.

4. Existing and projected land use patterns including the delineation of sewer service areas as described in section NR 121.05 (1) (g).

(d) *Water quality standards.* Applicable state water quality standards and any suggested revisions of such water quality standards.

(e) *Total maximum daily loads.* For each water quality limited stream segment, the total allowable maximum daily load of relevant pollutants during critical flow conditions for each specific water quality criterion being violated or expected to be violated.

(f) *Wasteload allocations.* For each water quality limited stream segment, the individual load allocation for point sources of pollutants for the 5-year period following plan preparation.

(g) *Municipal wastewater treatment and collection system needs:*

1. The most cost-effective regional wastewater treatment system (s) shall be identified over a 20-year planning period based upon an analysis of alternative waste treatment system configurations.

2. Collection system needs shall be identified through the delineation of a sewer service area for existing and proposed treatment systems:

a. The sewer service area shall be delineated based on a 20-year population projection and a locally approved population density standard (s).

b. Major areas unsuitable for sewer development because of environmental or physical constraints shall be excluded from the sewer service area.

c. Ten-year staging boundaries may also be included in addition to the 20-year sewer service area boundaries.

3. The identification of the regional wastewater treatment system and related sewer service areas in sections NR 121.05 (8) (a) and (b) above shall include criteria for the construction of future treatment systems within the areawide planning area which are not specifically identified in the plan. These criteria should address treatment systems proposed for the following applications:

a. Treatment systems serving isolated nonresidential development such as park and recreational facilities, airports, and highway orientated commercial facilities.

b. Interim treatment systems within the sewer service area to correct severe public health and water pollution problems related to existing development.

4. For nondesignated areas of the state, a detailed identification of the regional waste treatment system, including the preparation of sewer service areas, will be carried out for selected urban areas within standard metropolitan statistical areas (SMSA's) and for urban areas with a population of over 10,000.

(h) *Industrial waste treatment system needs.* The anticipated industrial point source waste load reductions required to attain and maintain applicable water quality standards and effluent limitations for at least a 20-year planning period.

(i) *Nonpoint source control needs:*

1. The best management practices needed to produce a basic level of control of nonpoint sources of pollutants throughout the planning area shall be identified and evaluated. Watersheds will be identified in the plan and the general water quality problems for each assessed.

2. Priority watershed plans shall be prepared on a priority basis by the department and applicable designated agencies. The priority watershed plans shall:

a. Identify the severity of the water quality problems associated with nonpoint sources of pollution;

b. Identify the target level of nonpoint source pollution control necessary to meet the water quality objectives;

c. Identify and rank significant nonpoint source types and nonpoint source contributing areas and map priority management areas;

d. List candidate best management practices for nonpoint source pollution control and present alternative levels of practice application that will achieve the water quality objectives; and

e. Estimate the costs for best management practice installation, operation and maintenance.

(j) *Residual waste control needs.* An identification of the necessary controls to be established over the disposition of residual wastes.

(k) *Land disposal needs.* An identification of the necessary controls to be established for the disposal of pollutants on land or in a subsurface excavation site.

(l) *Target abatement dates.* Target abatement dates or schedules of compliance for all significant dischargers, nonpoint source control measures, residual and land disposal controls and stormwater system needs.

(m) *Recommended regulatory programs.* A description of necessary additional state and local regulatory programs needed to implement the state water quality management plan.

(n) *Designated management agencies.* The identification of those agencies recommended for designation by the governor to carry out the provisions of the areawide plan.

(o) *Environmental, social, economic impact.* An assessment of the environmental, social and economic impacts of carrying out specific significant recommendations of the plan.

(2) The department may waive inclusion of any of these elements upon receipt of a written showing by the designated planning agency that special conditions exist in the planning area which preclude their inclusion or that financial resources are not adequate to allow their inclusion.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 121.06 Designation of areawide water quality planning areas and agencies. (1) As the need arises, the department shall recommend that the governor designate areawide planning areas which as a result of urban and industrial concentrations or other factors have substantial and complex water quality control problems.

(2) Within each of these planning areas the department shall recommend to the governor for designation a single agency capable of developing effective areawide plans. Each recommended planning agency shall:

(a) Be a representative organization whose membership shall include elected officials of local governments or their designees, having jurisdiction in a designated areawide planning area.

(b) Demonstrate substantial local support for designation through resolutions from local units of government deemed by the department to be critical to the successful preparation and implementation of an areawide water quality management plan.

(c) Demonstrate the technical capability to complete the plan in a timely manner.

(3) The department may recommend that the governor withdraw or modify the designation of a designated agency and/or designated area when a compelling need for such change has been demonstrated. Prior to making such a recommendation to the governor, the department shall, at a minimum, hold a public hearing(s) in the affected area.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 121.07 Procedures for approval of areawide water quality management plans and plan revisions for designated areas of the state. (1) Review and approval of areawide plans for designated areas:

Register, November, 1979, No. 286
Environmental Protection

(a) The department shall review and approve or disapprove each areawide plan and shall make recommendations to the governor as to the certification of all or part(s) of each plan.

(b) To receive departmental approval, areawide plans for designated areas must have been subject to an appropriate public participation process, including at a minimum, a public hearing(s).

(2) Review and approval of revisions to areawide plans for designated areas:

(a) The department shall reevaluate the approval status of each areawide plan for designated areas at least every 5 years.

1. The first such reevaluation will be completed in 1987.

2. Continued or renewed approval shall be granted only to plans, or portions thereof, upon a determination by the department that the plan continues to meet the requirements of this chapter.

(b) Major revisions of the plan shall be approved by the department subject to the approval procedures described in NR 121.07 (1) (a) and (b).

(c) The department may approve on an annual basis minor revisions which incorporate updated information but which do not constitute changes in the plan recommendations.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 121.08 Procedures for adoption and revision of areawide water quality management plans for nondesignated areas of the state. (1) Adoption of areawide plans for nondesignated areas:

(a) During development and prior to formal adoption, areawide plans for nondesignated areas or portions thereof shall be subject to an appropriate public participation process including, at a minimum, public hearing(s).

(b) Each areawide plan for a nondesignated area, or portion thereof, shall be submitted to the governor for certification as the adopted areawide water quality management plan for that portion of the state.

(2) Review and revision of areawide plans for nondesignated areas:

(a) At a minimum the department shall review, and if necessary, revise each areawide plan annually.

(b) Major revisions shall be subject to the public participation and adoption procedures as described in NR 121.08 (1).

(c) Areawide plans for each nondesignated area shall be subject to a major review and update at least every 5 years. The first such review and update of areawide plans for all nondesignated areas will be completed in 1987.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 121.09 Statewide water quality advisory committee. (1) The department shall form a statewide water quality advisory committee

Register, November, 1979, No. 286
Environmental Protection

(SWQAC) composed of representatives of federal, state and regional organizations, agencies and units of government.

(2) The department shall inform the committee of ongoing and proposed water quality planning and management activities and policy issues of statewide concern.

(3) The committee shall advise the department on water quality management issues of statewide concern.

(4) The statewide water quality advisory committee shall include, at a minimum, representatives of the following federal, state and regional organizations:

- (a) U.S. environmental protection agency
- (b) U.S. department of agriculture
- (c) U.S. geological survey
- (d) U.S. army corps of engineers
- (e) Wisconsin assembly natural resources committee
- (f) Wisconsin assembly environmental protection committee
- (g) Wisconsin senate natural resources committee
- (h) Wisconsin department of agriculture, trade and consumer protection
- (i) Wisconsin department of transportation
- (j) Wisconsin department of administration
- (k) Wisconsin board of soil and water conservation districts
- (l) University of Wisconsin-extension
- (m) Wisconsin department of natural resources
- (n) Wisconsin department of local affairs and development
- (o) Wisconsin department of health and social services
- (p) Southeastern Wisconsin regional planning commission
- (q) Dane county regional planning commission
- (r) Fox valley water quality planning agency
- (s) Rock river task force
- (t) Upper Wisconsin river task force
- (u) Lake Michigan policy advisory committee
- (v) Southwest Wisconsin policy advisory committee
- (w) Northwest Wisconsin policy advisory committee

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 121.10 Severability. Should any section, paragraph, phrase, sentence, clause or word of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.