

Clearinghouse Rule 13-112

Report to
Legislative Council Rules Clearinghouse
NR , Wis. Adm. Code
Natural Resources Board Order No.

Wisconsin Statutory Authority

Sections 227.11 (2), 281.19(1), 283.31, 283.55(1), 299.11, and 299.15(2), Stats.

Federal Authority

The federal counterpart to this rule is 40 CFR 136. On May 18, 2012, EPA published as final rule, "Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Analysis and Sampling Procedures". The proposed revision to ch. NR 219 incorporates these changes and is consistent with the federal regulations.

Comparison of Adjacent States

The States of Illinois, Iowa, Michigan, and Minnesota have wastewater programs delegated to them from the U.S. Environmental Protection Agency. Wisconsin has been the only state within EPA Region 5 which has allowed the use of SW-846 methods for NPDES compliance monitoring. Therefore, removing SW-846 methods from the rule will bring Wisconsin into line with other states.

With respect to new methods promulgated by the EPA, the Illinois EPA incorporated changes to 40 CFR Part 136 with legislation which took effect February 2013. The State of Michigan does not certify laboratories that perform analyses of wastewater. The Minnesota Environmental Laboratory Accreditation Program incorporated the changes to 40 CFR Part 136 for its October 2013 application period. The Iowa Department of Natural Resources rules reference the 2007 edition of 40 CFR Part 136 at this time.

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

Specifically, the proposed rule package will address EPA's issues with the Department rule (NR 219) incorporating SW 846 methods for wastewater sample analysis. The EPA publication SW - 846, entitled Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, is the waste division of EPA's official compendium of analytical and sampling methods that have been evaluated and approved for use in complying with the federal Resource Conservation and Recovery Act (RCRA) regulations. The DNR has allowed SW 846 methods for analysis of wastewater samples since 1995 because the methods are revised frequently and contain stringent quality control measures. However, EPA has requested that DNR remove from NR 219 all references to allowing SW 846 methods as "approved" methods for analysis of wastewater samples. EPA has also requested that DNR update NR 219 to incorporate analytical methods that have been federally approved in the Federal Register (40 CFR 136). Therefore, one objective of this rule change is to remove analytical methods that EPA has not approved for wastewater from the list of approved analyses in NR 219. The other objective is to add methods that are currently allowed by EPA per 40 CFR Part 136 but are not included in NR 219 at this time.

Agency Procedures for Promulgation

Public hearing, Natural Resources Board adoption, Governor's Office of Regulatory Compliance final approval, followed by legislative review

Description of any Forms (attach copies if available)

None

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