

MEMORANDUM OF AGREEMENT
BETWEEN THE
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

AND

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION V

INTRODUCTION

The Environmental Protection Agency (EPA) Guidelines for state program elements necessary for participation in the National Pollutant Discharge Elimination System (NPDES), 40 CFR 124, prepared pursuant to the authority contained in Section 304(h)(2) of the Federal Water Pollution Control Act Amendment of 1972 (referred herein as the Federal Act) were published in the Federal Register on December 22, 1972. Various sections of the Guidelines permit the chief administrative officer of a state water pollution control agency and the Regional Administrator of EPA to reach agreement on the manner in which the 40 CFR 124 Guidelines are to be implemented.

To satisfy the requirements of the Guidelines, the following procedures are hereby agreed to by the Administrator of the Division of Environmental Protection, State of Wisconsin Department of Natural Resources (referred to herein as the Administrator), and the Regional Administrator.

The sections and subsections of 40 CFR 124 related to these agreements are: 124.22, 124.23, 124.35(b), 124.35(c), 124.41(c), 124.44(d), 124.46, 124.47, 124.61(b), 124.62(c), 124.71(c), 124.72(b), 124.73(b)(2), and 124.80(d). The terms used in this Memorandum of Agreement have the same meaning as those used and defined in 40 CFR 124.1

I. RECEIPT AND USE FEDERAL DATA

- A. The two purposes of this part of the agreement are: (1) to provide for the transfer of data bearing on NPDES permit determinations from the EPA to the Wisconsin Department of Natural Resources and (2) to insure that any significant deficiencies in the transferred NPDES application will be corrected prior to issuance of an NPDES permit.
- B. Commencing immediately after the effective date of this agreement the Regional Administrator will transmit to the Administrator a list of all NPDES permit applications received by EPA. This list will include the name of each discharger, SIC Code, application number and indicate those applications which EPA has determined are administratively complete.

- C. After receipt of the list, the Administrator will indicate the order to be used by EPA to transmit the application files to him. The application file will include the NPDES permit application and any other pertinent data collected by EPA. The application files will be transmitted to the Administrator according to the order indicated. EPA will retain two copies of each file transmitted to the Administrator and route one copy to the Permit Branch and the second to the Regional Data Management Section, Surveillance and Analysis Section.
- D. For an application identified by EPA as not administratively complete, EPA will obtain the necessary information from the discharger and complete the application prior to its transmittal to the Administrator. The Administrator will obtain effluent data and any other additional information for those applications identified by EPA as administratively complete which he deems necessary to update or process the application.
- E. For each application for which additional information was obtained by the Administrator, two (2) copies of each completed application or completing amendments and a cover letter indicating that the application has been determined to be complete will be transmitted by the Administrator to the Regional Administrator, Attention: Permit Branch. One copy will be routed by the Regional Administrator to the Regional Data Management Section, Surveillance and Analysis Division, for processing into the National Data Bank and the other copy will be placed in the NPDES Permit Branch file.

II. TRANSMISSION OF NPDES APPLICATION FORMS TO REGIONAL ADMINISTRATOR

- A. After final approval of Wisconsin's NPDES permit program, the Administrator will assume initial responsibility for determining that applications submitted to the Department after that date are complete. When the Administrator determines that the NPDES forms received from the applicant are complete, two (2) copies of the forms with a cover letter indicating that the forms are complete will be transmitted to the Regional Administrator, Attention: Permit Branch. If EPA concurs with the Administrator, one (1) copy will be routed to the Regional Data Management Section, Surveillance and Analysis Division, through the Compliance Section, Enforcement Division for processing into the National Data Bank and the other copy will be placed in the Regional NPDES Permit Branch file. If the Regional Administrator does not concur that the application is complete, he shall within 20 days notify the Administrator by letter in which respects the application is deficient. No NPDES permit will be issued by the Administrator until the deficiencies are corrected.
- B. After receipt of an NPDES short form application from the Administrator, the Regional Administrator may identify the discharge as one for which an NPDES standard form shall be submitted. The Regional Administrator shall notify the Administrator of any such determination made with respect to any such discharge. After receipt of this determination the Administrator shall require the applicant to submit an NPDES standard application form or any other information requested by the Regional Administrator.

- C. When requested by the Regional Administrator, the Administrator will transmit copies of notices received by him from publicly owned treatment works pursuant to 40 CFR 124.45(d) and (e) and Section 147.14, Wisconsin Statutes, within 20 days of receipt of the request.
- D. The Regional Administrator may waive his right to receive copies of NPDES application forms with respect to classes, types and sizes within any category of point sources and with respect to minor discharges or discharges to particular navigable waters or parts thereof. Such written waiver must be issued by the Regional Administrator before the Administrator can discontinue transmitting copies of NPDES forms to EPA.

III. PUBLIC ACCESS TO INFORMATION

- A. The Administrator will protect any information (other than effluent data) contained in such NPDES form, or other records, reports or plans as confidential upon a showing by any person that such information, if made public, would divulge methods or processes entitled to protection as trade secrets of that person. If, however, the information being considered for confidential treatment is contained in an NPDES form, the Administrator will forward such information to the Regional Administrator for his concurrence in any determination of confidentiality. If the Regional Administrator does not agree that some or all of the information being considered for confidential treatment merits such protection, he will request advice from the Office of the General Counsel, stating the reasons for his disagreement with the determination of the Administrator. The Regional Administrator will simultaneously provide a copy of the request to the Administrator and to the person claiming trade secrecy. The General Counsel will determine whether the information in question would, if revealed, divulge methods or processes entitled to protection as trade secrets. In making such determinations, he will consider any additional information submitted to the Office of the General Counsel within 30 days of receipt of the request from the Regional Administrator. If the General Counsel determines that the information being considered does not contain trade secrets, he will so advise the Regional Administrator and will notify the person claiming trade secrecy of such determination by certified mail. No sooner than 30 days following the mailing of such notice, the Regional Administrator will communicate to the Administrator his decision not to concur in the withholding of such information and the Regional Administrator will then make available to the public, upon request, that information determined not to constitute trade secrets, unless an appeal is made to EPA by the person claiming trade secrecy. Following an appeal, the determination made by EPA will be conclusive unless reviewed in an appropriate district court of the United States.
- B. Any information accorded confidential status, whether or not contained in an NPDES form, will be disclosed by the Administrator, upon written request, to the Regional Administrator, or his authorized representative, who will maintain the disclosed information as confidential.

IV. TRANSMISSION TO REGIONAL ADMINISTRATOR OF PROPOSED NPDES PERMIT

- A. At the time a public notice required by 40 CFR 124.32 and Section 147.09, Wisconsin Statutes, is issued, the Administrator will transmit one copy of the NPDES public notice, the fact sheet (if one is required) and proposed NPDES permit to the Regional Administrator, Attention: NPDES Permit Branch. The information transmitted with the proposed permit will include any and all terms, conditions, requirements or documents which are part of the proposed NPDES permit or which affect the State's authorization of the discharge of pollutants.
- B. The Regional Administrator will be provided 45 days from the time he receives the proposed NPDES permit from the Administrator within which to object to, as provided for in Section 402(d)(2) of the Federal Act, comment upon or make a recommendation with respect to the proposed NPDES permit. Upon request of the Regional Administrator, the Administrator will provide the Regional Administrator additional time for review, provided that the total review period shall not exceed 90 days. The Regional Administrator shall notify the Administrator within the time periods set forth above if EPA objects to or concurs with the issuance by the Administrator of the NPDES permit as proposed.
- C. If a proposed NPDES permit issued with a public notice is modified as a result of comments received by the Department during the thirty-day comment period or as a result of a public hearing, the Administrator will transmit a revised copy of the proposed NPDES permit to the Regional Administrator, Attention: NPDES Permit Branch, and shall specify the reasons for the modifications.

The Regional Administrator shall be provided 45 days from the time he receives the proposed NPDES permit, as revised, within which to object, comment upon or make recommendations with respect to any such revisions. Upon request of the Regional Administrator, the Administrator will provide the Regional Administrator additional time for review, provided that the total review period shall not exceed 90 days. The Regional Administrator shall notify the Administrator within the time periods set forth above if EPA either objects to or concurs with the issuance by the Administrator of the NPDES permit as revised.

- D. Upon receipt of any written comments on any proposed NPDES permit from any State whose waters may be affected by the issuance of such a permit, the Administrator shall consider such written recommendations and may modify the proposed NPDES permit accordingly. If the Administrator fails to accept, in whole or in part, the written recommendations of such a State, he shall immediately notify the Regional Administrator of his reasons for so doing. The Regional Administrator, notwithstanding the provisions of Paragraph B above, shall be provided 45 days from the time he receives such notification from the Administrator within which to object to, comment upon or make recommendations with respect to the issuance of the proposed NPDES permit. Upon request of the Regional Administrator, the Administrator will provide the Regional Administrator additional time for review, provided that the total review period shall not exceed 90 days.

E. No later than 120 days from the date of EPA approval of Wisconsin's NPDES permit program, the Regional Administrator, pursuant to Section 402(e) of the Federal Act, shall consider whether to waive his right to receive, review, object to or comment upon proposed NPDES permits for all industrial discharges into navigable waters with daily discharges of less than 100,000 gallons per day and all discharges from publicly owned treatment works of less than 500,000 gallons per day and for all discharges, irrespective of size, for such categories and classes of point sources as the Regional Administrator shall specify at that time.

The Regional Administrator shall promptly notify the Administrator of his decision. If the Regional Administrator does not respond to the Administrator within this 120-day period, his right to receive, review, object to or comment upon proposed permits of less than the above levels shall be considered waived.

V. TRANSMISSION TO REGIONAL ADMINISTRATOR OF ISSUED NPDES PERMITS

The Administrator will transmit to the Regional Administrator two (2) copies of every issued NPDES permit, Attention: NPDES Permit Branch, together with any and all terms, conditions and requirements of the NPDES permit. The Administrator will transmit the above information, together with a copy of the Administrator's letter to the applicant forwarding the NPDES permit, at the same time the NPDES permit issued by the Department is transmitted to the applicant.

VI. COMPLIANCE REPORTS

On the last day of the months of February, May, August and November the Administrator will transmit to the Regional Administrator, Attention: Compliance Section, Enforcement Division, a list of all instances, as of 30 days prior to the date of such report, of failure or refusal of an NPDES permittee to comply with an interim or final requirement of a schedule of compliance or to notify the Department of compliance or noncompliance with each interim or final requirement. The list will be available to the public for inspection and copying and will contain at least the following information with respect to each instance of noncompliance.

1. The name and address of each noncomplying NPDES permittee;
2. A short description of each instance of noncompliance (e.g., failure to submit preliminary plans, two-week delay in commencement of construction of treatment facilities, etc.);
3. A short description of any action or proposed action by the permittee or the Administrator to comply or enforce compliance with an interim or final requirement; and
4. Any details which tend to explain or mitigate an instance of noncompliance with an interim or final requirement (e.g., construction delayed due to materials shortage, etc.).

VII. MONITORING

- A. Any discharge authorized by an NPDES permit which (1) is not a minor discharge, (2) the Regional Administrator requests, in writing, to be monitored, or (3) contains toxic pollutants for which an effluent standard has been established pursuant to Section 307(a) of the Federal Act, will require monitoring by the permittee for at least the following:
- (i) Flow (in gallons per day); and
 - (ii) All of the following pollutants:
 - a. Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;
 - b. Pollutants which the Department finds, on the basis of information available to it, could have significant impact on the quality of navigable waters;
 - c. Pollutants specified by the Administrator of EPA, in regulations issued pursuant to the Federal Act, as subject to monitoring; and
 - d. Any pollutants in addition to the above which the Regional Administrator requests, in writing, to be monitored.
- B. The Regional Administrator may make the request specified in A (2) and (3) above at any time before an NPDES permit is issued.
- C. The Administrator will ensure that the Regional Administrator receives two (2) copies of all NPDES reporting forms submitted to the Department. If the Regional Administrator determines that the NPDES reporting forms are complete, he shall route one copy to the Permit Branch and the second to the Regional Data Management Section, Surveillance and Analysis Division, for processing into the National Data Bank. If the Regional Administrator determines that the NPDES reporting forms submitted to the Department are not complete or are otherwise deficient, he shall specify to the Administrator in which respects the forms are deficient. Upon receipt of the specification of deficiencies, the Administrator shall require the permittee to supply such additional information as the Regional Administrator specifies.
- D. The Administrator will evaluate data submitted by NPDES permittees in NPDES reporting forms and other forms supplying monitoring data for possible enforcement or remedial action.

On the last day of the months of February, May, August and November the Administrator will transmit to the Regional Administrator, Attention: Compliance Section, Enforcement Division, a list of all instances, as of 30 days prior to the date of such report, of each failure or refusal of an NPDES permittee to comply with an interim or final effluent limitation. The list will be available to the public for inspection and copying and will contain at least the following information with respect to each instance of noncompliance.

1. The name and address of each noncomplying NPDES permittee;
2. A short description of each instance of noncompliance;
3. A short description of any action or proposed action by the permittee or the Administrator to comply or enforce compliance with an interim or final effluent limitation; and
4. Any details which tend to explain or mitigate an instance of noncompliance with an interim or final effluent limitation.

VIII. MONITORING RESULTS

During the term of a permit, upon request of the Regional Administrator, the Administrator shall notify and require the permittee to extend the normal three-year retention of monitoring records required under 40 CFR 124.62(c).

IX. RECEIPT AND FOLLOW-UP OF NOTIFICATIONS AND REQUESTS

If the Administrator determines that a condition of a permit to a publicly owned treatment works relating to a new introduction or changes in the volume or character of pollutants introduced into such treatment works is violated, he shall notify the Regional Administrator in writing and consider taking action to restrict or prohibit the introduction of pollutants into treatment works.

X. MODIFICATION, SUSPENSION AND REVOCATION OF NPDES PERMITS

- A. If an NPDES permit is modified, suspended or revoked by the Administrator for good cause, a copy of the proposed modification, suspension or revocation shall be transmitted to the Regional Administrator, Attention: NPDES Permit Branch. The Regional Administrator will be provided 45 days from the time he receives the proposed modification, suspension or revocation from the Administrator within which to object, as provided for in Section 402(d)(2) of the Federal Act, comment upon or make a recommendation with respect to the proposed modification, suspension or revocation.

Upon request of the Regional Administrator, the Administrator shall provide the Regional Administrator additional time for review, provided that the total review period does not exceed 90 days.

- B. If the Administrator, upon request of the permittee, decides to revise or modify a schedule of compliance for good cause, he shall notify the Regional Administrator in writing. The Regional Administrator shall notify the administrator in writing of his acceptance or rejection of such request within 20 days of receipt of the notice.

XI. EMERGENCY NOTICE

The Administrator or his authorized representative will notify the Regional Administrator by telephone as soon as he is notified of any actual or immediate threat to the health or welfare of persons resulting from the discharge of pollutants. The Administrator or his authorized representative will utilize the telephone numbers identified in the current Regional Oil and Hazardous Materials Contingency Plan to notify the Regional Administrator. Telephone contact may be made with either the EPA District Offices or the Regional Offices, as the Administrator determines appropriate.

XII. CONTROL OF DISPOSAL OF POLLUTANTS INTO WELLS

The Regional Administrator shall transmit to the Administrator any policies, technical information, or requirements specified by the Administrator of EPA in regulations issued pursuant to the Act or in directives issued to Environmental Protection Agency Regional Offices.

XIII. OTHER ITEMS

- A. Attached hereto is a list of major dischargers which shall be given priority in processing and a schedule for such processing. This schedule is premised on the availability of guidance material from EPA for dischargers identified. Also attached is a six-month schedule covering all permits to be processed in the six-month period. This is the first part of the schedule aimed at completing all all permits to be issued in the State of Wisconsin by December 31, 1974. The schedule will be expanded by the Department on a quarterly basis thereafter to identify the remainder of the workload until all permits are issued. A copy of each quarterly schedule will be forwarded by the Administrator to the Regional Administrator for review.
- B. After the effective date of this agreement, the Administrator and the Regional Administrator shall pursue additional discussions as to appropriate responsibilities with respect to the input of application and monitoring data into the National Data Bank.
- C. This Memorandum of Agreement may be modified by the Administrator and the Regional Administrator following the public hearing to evaluate the State Program submitted pursuant to Section 402(b) of the Federal Act on the basis of issues raised at the hearing. The hearing record will be left open for a period of five days following the hearing to permit any person to submit additional written statements or to present views or evidence tending to rebut testimony presented at the public hearing. Any revisions of agreements following public hearing will be finalized, reduced to writing and signed by the Administrator and the Regional Administrator prior to forwarding of this Memorandum of Agreement and the recommendations of the Regional Administrator to the Administrator of EPA for review and approval. The Administrator and Regional Administrator will make any such revised agreements available to the public for inspection and copying.

- D. All agreements between the Wisconsin Department of Natural Resources and the Regional Administrator are subject to review by the Administrator of EPA. If the Administrator of EPA determines that any provisions of such agreement do not conform to the requirements of Section 402(b) of the Federal Act or to the requirements of Section 304(h)(2) Guidelines, he will notify the Administrator and Regional Administrator of any revisions or modifications which must be made in the written agreements.
- E. This Memorandum of Agreement will take effect after it has been executed by the Administrator and the Regional Administrator and concurred in by the Administrator of EPA.
- F. This Memorandum of Agreement shall remain in effect until such time as it is modified or suspended.
- G. After the date of approval of Wisconsin's Pollutant Discharge Elimination System Permit Program, the Department shall be primarily responsible for the administration and enforcement of all federally issued NPDES permits issued prior to that date, except those NPDES permits issued to agencies and instrumentalities of the federal government and for Indian activities on Indian lands as provided by 40 CFR 125.2(a)(2).

State of Wisconsin
 Department of Natural Resources

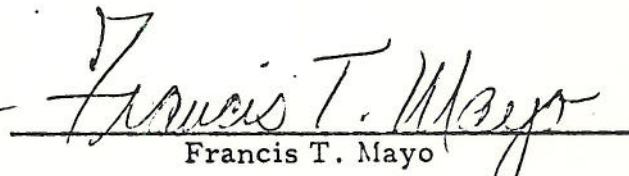
U.S. Environmental Protection Agency
 Region V

By

By



 Thomas G. Frangos, Administrator
 Division of Environmental Protection



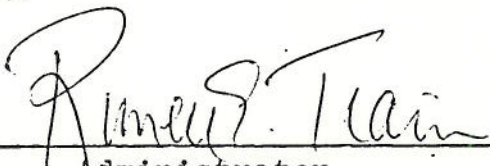
 Francis T. Mayo
 Regional Administrator

12/19/73

 Date

12/17/73

 Date

APPROVED: 

 Administrator
 Environmental Protection Agency

2/4/74

 Date

Attachment I to the Memorandum of Agreement

The Department proposes to issue permits to all major industrial and major municipal dischargers listed below by December 31, 1974.

IA MAJOR INDUSTRIAL DISCHARGERS
IN WISCONSIN

<u>DISCHARGER</u>	<u>LOCATION</u>	<u>RECEIVING WATER</u>
Sterling Pulp & Paper	Eau Claire, WI	Chippewa River
Flambeau Paper Company Peavey Paper Mills	Park Falls, WI Ladysmith, WI	Flambeau River Flambeau River
American Can Co.	Green Bay, WI	Fox River
Appleton Papers, Inc.	Combined Locks, WI	Fox River
Bergstrom Paper Co.	Neenah, WI	Fox River
Charmin Paper Products Co.	Green Bay, WI	Fox River
Chicago & Northwestern Consolidated Papers, Inc.	Green Bay, WI Appleton, WI	Fox River Fox River
Fort Howard Paper Co.	Green Bay, WI	Fox River
George A. Whiting Paper Co.	Menasha, WI	Fox River
Green Bay Packaging Inc.	Green Bay, WI	Fox River
John Strange Paper Co.	Menasha, WI	Fox River
Kimberly-Clark Corp. (Badger Globe Division)	Neenah, WI	Fox River
Kimberly-Clark Corp. (Kimberly Mill)	Kimberly, WI	Fox River
Kimberly-Clark Corp. (Lakeview Division)	Neenah, WI	Fox River
Kimberly-Clark Corp. (Neenah Paper Mill)	Neenah, WI	Fox River
Nicolet Paper Company	West De Pere, WI	Fox River
Riverside Paper Corp.	Appleton, WI	Fox River
Thilmany Pulp & Paper Co.	Kaukauna, WI	Fox River
Chicago & Northwestern	Altoona, WI	Lake Altoona
Wisconsin Electric Power (Lakeside Plant)	Milwaukee, WI	Lake Michigan
Wisconsin Electric Power (Oak Creek Plant)	Oak Creek, WI	Lake Michigan
Wisconsin Electric Power (Point Beach Nuclear Plant)	Two Rivers, WI	Lake Michigan
Wisconsin Electric Power (Port Washington)	Milwaukee, WI	Lake Michigan
Wisconsin Power & Light*	Sheboygan, WI	Lake Michigan
Wisconsin Public Service*	Green Bay, WI	Lake Michigan
Wisconsin Public Service (Kewaunee Nuclear Plant)	Kewaunee, WI	Lake Michigan
Madison Gas & Electric*	Madison, WI	Lake Monona

Owens-Illinois, Inc.
St. Regis Paper Co.
Tomahawk Power & Pulp
Ward Paper Co.
Wausau Paper Company
Wisconsin Public Service Corp.*

Shawano Paper Mills

Tomahawk, WI
Rhineland, WI
Tomahawk, WI
Merrill, WI
Brokaw, WI
Weston, WI

Shawano, WI

Wisconsin River
Wisconsin River
Wisconsin River
Wisconsin River
Wisconsin River
Wisconsin River

Wolf River

IB MAJOR MUNICIPAL DISCHARGERS
IN WISCONSIN

DISCHARGER

RECEIVING WATER

Antigo, City of	Spring Brook
Appleton, City of*	Fox River/Green Bay
Ashland, City of	Lake Superior
Baraboo, City of	Baraboo River
Beaver Dam, City of	Beaver Dam River
Beloit, City of	Rock River
Berlin, City of	Fox River/Green Bay
Brookfield, City of *	Fox (Illinois) River
Burlington, City of	Fox (Illinois) River
Cedarburg, City of	Cedar Creek
Chippewa Falls, City of	Chippewa River
Delavan, City of	Turtle Creek
DePere, City of*	Fox River/Green Bay
Eau Claire, City of	Chippewa River
Fond du Lac, City of	Lake Winnebago
Fort Atkinson, City of	Rock River
Green Bay Metro. Sewerage District	Fox River/Green Bay
Janesville, City of	Rock River
Jefferson, City of	Rock River
Kaukauna, City of*	Fox River/Green Bay
Kenosha, City of	Lake Michigan
La Crosse, City of	Mississippi River
Madison Metro. Sewerage District	Ditch to Badfish Creek
Manitowoc, City of	Lake Michigan
Marinette, City of	Menominee River
Marshfield, City of	Mill Creek
Menomonie Falls, Village of*	Menominee River
Menomonie, City of	Red Cedar River
Merrill, City of	Wisconsin River
Milwaukee Metro. Sewerage Commission:	
Jones Island Plant*	Lake Michigan
South Shore Plant*	Lake Michigan
Monroe, City of	Honey Creek
Neenah-Menasha Sewerage Commission*	Fox River/Green Bay
Oconomowoc, City of	Oconomowoc River
Oconto, City of	Oconto River
Oconto Falls, City of	Oconto River
Oshkosh, City of	Fox River/Green Bay
Peshtigo, City of	Peshtigo River
Platteville, City of	Roundtree Branch, Little Platte River
Prairie du Chien, City of	Mississippi River
Racine, City of	Lake Michigan
Reedsburg, City of	Baraboo River
Rhinclander, City of	Pelican River
Rice Lake, City of	Red Cedar River
Ripon, City of	Silver Creek
Shawano, City of	Wolf River

DISCHARGER

Sheboygan, City of
South Milwaukee, City of*
Sparta, City of
Stevens Point, City of
Superior, City of
Two Rivers, City of
Wapun, City of
Watertown, City of
Waukesha, City of*
Wausau, City of
West Bend, City of*
Whitehall, City of
Whitewater, City of
Wisconsin Rapids, City of

RECEIVING WATER

Lake Michigan
Lake Michigan
La Crosse River
Wisconsin River
Lake Superior
Twin River
South Branch, Rock River
Rock River
Fox (Illinois) River
Wisconsin River
Milwaukee River
Trempealeau River
Whitewater Creek
Wisconsin River

*Also listed in Table 3

Attachment II to the Memorandum of Agreement

Projected Six-Month Schedule
of Permits to be Processed

<u>Priority</u>	<u>Projected Number</u>
A. Major Municipal	35
B. Major Industrial	30

MODIFICATION TO NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MEMORANDUM OF AGREEMENT BETWEEN THE
WISCONSIN DEPARTMENT OF NATURAL RESOURCES
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION V

The Memorandum of Agreement approved February 4, 1974, by the Administrator of the United States Environmental Protection Agency between the Wisconsin Department of Natural Resources (hereinafter, the "State") and the United States Environmental Protection Agency (hereinafter, "USEPA") Region V is hereby modified as follows:

The State will administer the NPDES permit program with respect to Federal facilities and has shown that it has the authority to enter and inspect Federal facilities. The State is responsible for the issuance, modification, reissuance, compliance monitoring and enforcement of all NPDES permits in Wisconsin, including permits applicable to Federal facilities but excluding permits to Indian tribes or tribal organizations discharging from point sources located on Indian lands or reservations in Wisconsin.

All references in the Memorandum of Agreement which have the effect of retaining responsibility to USEPA Region V over Federal facilities have no force or effect after the effective date of this Modification. Nothing in this Modification shall be construed to limit the authority of USEPA to take action pursuant to Sections 308, 309, 311, 402, 504, or other Sections of the Act.

This Modification will become effective upon approval of the Administrator.

WISCONSIN DEPARTMENT OF NATURAL
RESOURCES

By Anthony S. Earl
Anthony S. Earl, Secretary

Date: 22 June 1979

U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION V

By John McGuire
John McGuire, Administrator

Date: SEP 28 1979

Approved:

Jeffrey G. Hill
Acting Assistant Administrator for Enforcement
United States Environmental Protection Agency

Date: 12/3/79

Modification to National Pollutant Discharge Elimination System
Memorandum of Agreement Between the State of Wisconsin Department of
Natural Resources (hereafter the State) and the United States Environ-
mental Protection Agency, Region V (hereafter the U.S. EPA).

The Memorandum of Agreement approved February 4, 1974 by the Administrator
of the U.S. EPA between the State and the U.S. EPA is hereby modified to
define State and U.S. EPA responsibilities for the establishment and
enforcement of National Pretreatment Standards for existing and new
sources under Section 307(b) and (c) of the Clean Water Act (hereinafter
the Act) as follows:

The State has primary responsibility for: (a) enforcing the prohibited
discharge standards contained in 40 CFR Section 403.5; (b) applying and
enforcing National Pretreatment Standards established by the U.S. EPA in
accordance with Section 307(b) and (c) of the Act; (c) reviewing, approving
and overseeing pretreatment programs developed by Publicly Owned Treat-
ment Works (POTW) in accordance with 40 CFR Section 403.11; (d) requiring,
as provided for in 40 CFR Section 403.9 and Section 402(b)(8) of the
Act, development of a pretreatment program as a condition of NPDES
permits issued to POTW's; (e) reviewing and approving modification of
categorical pretreatment standards to reflect removal of pollutants by a
POTW and enforcing related conditions in the POTW's NPDES permit. The
U.S. EPA will overview State pretreatment program operations consistent
with 40 CFR Part 403 regulations and this Memorandum of Agreement.

The State shall perform inspection, surveillance and monitoring pro-
cedures to determine independent of information supplied by the POTW,
compliance or noncompliance by the POTW with pretreatment requirements
incorporated into the POTW's permit. The State shall also perform
inspection, surveillance and monitoring procedures to determine indepen-
dent of information supplied by the industrial user, whether the industrial
user is in compliance with Pretreatment Standards. The number of
inspections to be performed shall be agreed upon as part of the annual
section 106 program plan process.

The Regional Administrator will be provided 45 days from the time he
receives a proposed NPDES permit or permit modification containing
pretreatment requirements within which to comment upon or make a recom-
mendation with respect to the proposed NPDES permit or modification.
The Regional Administrator shall notify the State within the time period
set forth above if EPA objects to the issuance by the State of the NPDES
permit or modification, as proposed. Upon receipt of a general objec-
tion to a proposed permit the state shall allow an additional 45 days
for the Regional Administrator to file a specific objection.

Section 403.6 National Pretreatment Standards: Categorical Standards

The State shall incorporate into the Wisconsin Administrative Code
categorical pretreatment standards which are neither more nor less
stringent than those promulgated by the U.S. EPA.

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Until such time as the provisions of 40 CFR Section 403.6 are revoked or modified, the State shall review requests from industrial users which solicit certification as to whether or not the user falls within a particular industrial subcategory. After making a written determination on the request, the state shall submit its findings, together with a copy of the request and the necessary supporting information to the U.S. EPA Regional Enforcement Division Director for concurrence. If the Enforcement Division Director does not modify the State's decision within 60 days of receipt thereof, the State's finding shall be final. Where the Enforcement Division Director elects to modify the State's decision, the Enforcement Division Director's decision shall be final. Where the final decision is made by the Enforcement Division Director, he shall send a copy of this determination to the requestor and to the State.

Section 403.7 Consistent Removal Credits and Section 403.9 POTW Pretreatment Program Approvals

The State shall review POTW applications for consistent removal credits and requests for approval of POTW Pretreatment Programs. It shall submit its findings together with the application and supporting information to the U.S. EPA Regional Enforcement Division Director for review. No POTW Pretreatment Program or request for consistent removal credits shall be approved by the State if during the 30 day (or extended) evaluation period provided for in 40 CFR Section 403.11(b)(1)(ii), the U.S. EPA objects in writing to the approval of such submission. The State will as soon as possible adopt the administrative rules necessary to approve POTW applications for consistent removal credits. Until such rules have been enacted, the State will recommend approval or denial of the POTW application to U.S. EPA Regional Enforcement Division Director.

Section 403.13 Variances From Categorical Pretreatment Standards for Fundamentally Different Factors

The State shall make an initial finding on all requests from industrial users for variances from categorical Pretreatment Standards, where the request is based on the allegation of the existence of fundamentally different factors. Where the State's initial finding is to approve the request, the finding, together with the request and supporting information shall be forwarded to the U.S. EPA Regional Enforcement Division Director for a final determination. The State may deny, but shall not approve a fundamentally different factor request until written approval has been received from the Enforcement Division Director. The State will as soon as possible adopt the administrative rules necessary to approve and deny requests for fundamentally different factors variances. Until such rules have been enacted, the State will recommend approval or denial of the request to the U.S. EPA Regional Enforcement Division Director.

Miscellaneous

The State shall submit a list of municipalities which will be required to fully develop their own pretreatment programs. This list may be

revised from time to time and the additions or deletions will not require modification to the Memorandum of Agreement. No municipality shall be deleted from the list without the approval of the U.S. EPA Regional Enforcement Division Director.

Nothing in this agreement is intended to affect any Pretreatment requirements including any standards or prohibitions, established by state or local law as long as the state or local requirements are not less stringent than any set forth in the National Pretreatment Standards, or other requirements or prohibitions established under the Act or this regulation.

Nothing in this Modification shall be construed to limit the authority of U.S. EPA to take action pursuant to Section 204, 208, 301, 304, 306, 307, 308, 309, 311, 402, 404, 405, 501, or other Sections of the Clean Water Act of 1977 (33 USC S1251 et seq).

This Modification will become effective upon approval of the Administrator.

DEPARTMENT OF NATURAL RESOURCES

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION

By Arthur A. Pa...

By John McSwick

Date: 25 Feb. 1986

Date: MAY 2 1980

Approved:

[Signature]

Administrator

United States Environmental Protection Agency

Date: DEC 24 1980

E
F



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

REPLY TO THE ATTENTION OF

5RA-14

JAN 05 1987

Honorable Tommy G. Thompson
Governor of Wisconsin
Madison, Wisconsin 53703

Dear Governor Thompson:

It is with great pleasure that I am today approving the State of Wisconsin NPDES General Permits Program in accordance with the National Pollutant Discharge Elimination System General Permits Program, 40 CFR 122.28.

Your State is the eleventh State to request and receive approval for administration of this important program. I congratulate you and your staff for moving to assume administration of this important environmental program.

We look forward to working with you and the Department of Natural Resources in continued efforts toward the prevention and control of water pollution in the State of Wisconsin.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Valdas V. Adamkus".

Valdas V. Adamkus
Regional Administrator

ADDENDUM TO THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MEMORANDUM OF AGREEMENT BETWEEN
THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION V
TO INCORPORATE PROVISIONS INVOLVING SLUDGE USE AND DISPOSAL

The Memorandum of Agreement (MOA) between the Wisconsin Department of Natural Resources (WDNR) and the Regional Administrator of the U.S. Environmental Protection Agency (EPA), initially approved on February 4, 1974, is hereby modified to define the respective responsibilities of the WDNR and EPA in accordance with the sewage sludge regulations promulgated under sections 402 and 405 of the Clean Water Act and Chapter 283, Wis. Stats., and as described in the program description.

Section 1. General

1. Nothing in this Addendum should be interpreted to restrict EPA's oversight responsibility for all aspects of a Sludge Management Program.
2. This Addendum shall become effective when signed by the Administrator and the WDNR.
3. Nothing in this chapter shall limit or relieve the parties established by the initial NPDES MOA and the modifications to that MOA of which this is an Addendum
4. The WDNR and EPA will negotiate priorities for implementation of a Sludge Management Program and inspection of POTW's and other sludge generators and disposers.
5. The WDNR's noncompliance with any of the terms contained herein is grounds for withdrawal of EPA approval of the WDNR's Sludge Management Plan.

Section 2 . Permit Administration and Specific Conditions

1. EPA reserves the right to review and object to any permits. Upon EPA's request, the WDNR shall forward copies of the permit application, draft or proposed permits, and fact sheets for review, comment, and possibly, objection. Pursuant to s. 283.31(2), Stats., the WDNR shall not issue any permit that EPA has objected to in writing.
2. The WDNR agrees to provide notification of a completed permit application to those entities listed in s. NR 203.03, Wis. Adm. code, as well as to any other entity requesting such notification, and agrees to mail the permit documents listed in 40 CFR 124.10(e) to those agencies upon request. The WDNR also agrees to provide a notice of

final determination to issue or deny a permit to discharge to those entities listed in s. NR 203.13, Wis. Adm. Code, as well as to any other entity requesting such notice.

3. Copies of all permits issued shall be transmitted to EPA at their request.
4. The WDNR agrees to use the attached sludge management information form (Appendix C) as part of the WPDES permit applications. To satisfy the requirement in 40 CFR 501.15(2)(ix)(E), the Department agrees to include a phone number and address in the permit public notices which members of the public can utilize to find out information on presently known approved land application sites, and sites that may be approved in the future during the term of the permit.
5. The WDNR agrees to provide a written response to comments in accordance with 40 CFR 124.17. The response will be made available to the public.
6. Copies of all inspection reports (Form 3560-3) shall be transmitted to EPA at their request.
7. Annual sludge production volumes and specific sludge use or disposal activities are currently being tabulated and will be submitted to EPA within no more than 5 years.

Section 3. Enforcement and Compliance Monitoring

The enforcement and compliance monitoring provisions contained in the NPDES MOA between WDNR and EPA shall apply to treatment works treating domestic sewage and to sludge users and disposers and to sludge uses and disposal practices. Additionally the following provisions have been agreed upon:

1. The WDNR shall have the procedures and ability for inspecting all Class I sewage sludge management facilities at least annually, pursuant to 40 CFR 501.16. The frequency and scope of inspections will be negotiated between WDNR and EPA, on an annual basis.
2. The WDNR agrees to download report information submitted on WDNR form 3400-165 to PCS, annually by no later than May 19, unless a different agreement is negotiated between WDNR and EPA.¹
3. For sewage sludge management, the WDNR will continue its use of stepped enforcement, with an emphasis on compliance assistance. In instances of non-

¹ It is the WDNR's intent to eventually download electronically all biosolids reporting data to the Biosolids Data Management System (BDMS). This system has been developed for national use by USEPA Headquarters and Region 8 and is expected to become the biosolids component of the redesigned PCS. This assumes that a link is built by EPA or WDNR, to interface between the BDMS and the WDNR database.

compliance, the WDNR recognizes that EPA has the authority to issue administrative orders or assess a penalty.

4. The WDNR will submit an annual report regarding non-compliance as documented through the issuance of Notice of Violations for all sewage sludge facilities in accordance with 40 CFR 501.21. Notice of Violations will continue to be issued in accordance with standard WDNR enforcement procedures.
5. The WDNR will input data related to compliance inspections from form 3560-3, into PCS within 45 days after the end of the quarter in which the inspection occurred.
6. The WDNR and EPA shall have periodic enforcement conferences to decide priorities for initiating enforcement actions and to coordinate enforcement activities.
7. For purposes of sludge management facilities, compliance inspections may include toxicity testing, sludge sampling, soil sampling, and groundwater sampling.

Section 4. Independent EPA Powers

Nothing in this MOA shall be construed to limit the authority of EPA to take action pursuant to its powers under the CWA or to limit its oversight responsibilities with respect to sludge management program administration. The MOA is for the administrative convenience of EPA, and does not confer any right to violators.

Section 5. Incorporation by Reference

Whenever the WDNR is required to adopt Federal standards or requirements, it may do so by reference. Unless permissible under state law, the WDNR will not prospectively incorporate regulations by reference.

Section 6. Procedure to Modify this Agreement

Signed written modifications may be made to this MOA upon mutual agreement of EPA and WDNR.

FOR STATE AGENCY:

George E. Meyer

George E. Meyer, Secretary
Wisconsin Department of Natural Resources

2/18/00

Date

FOR U. S. ENVIRONMENTAL PROTECTION AGENCY:

Francis X. Lyons

Francis X. Lyons, Regional Administrator
USEPA Region 5

7/28/00

Date

Attachment 2

**ADDENDUM TO THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MEMORANDUM OF AGREEMENT
BETWEEN
THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION V
CONCERNING WISCONSIN'S GREAT LAKES RULES AND PROCEDURES**

ADDENDUM TO THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MEMORANDUM OF AGREEMENT BETWEEN
THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION V
CONCERNING WISCONSIN'S GREAT LAKES RULES AND PROCEDURES

Section 1. General

The federal Water Quality Guidance for the Great Lakes System (federal guidance), 40 CFR Part 132, contains the minimum water quality standards, antidegradation policies, and implementation procedures for the Great Lakes System to protect human health, aquatic life, and wildlife. The Great Lakes states and tribes were required to adopt provisions consistent with (as protective as) the federal guidance for their waters within the Great Lakes System. The state of Wisconsin adopted rules incorporating the federal guidance in 1997.

The United States Environmental Protection Agency Region 5 (USEPA) and the Wisconsin Department of Natural Resources (WDNR) enter into this Addendum to ensure that Wisconsin's rules, WPDES permits and procedures are implemented in a manner consistent with the federal guidance.

This Addendum only applies to those portions of Wisconsin's WPDES permit program applicable to the Great Lakes System within Wisconsin.

Except for Issue 7, this Addendum does not apply to discharges of pollutants listed in Table 5 of 40 CFR Part 132.

The WDNR intends to request permission to initiate the rulemaking process to specifically incorporate some of the interpretations addressed in this Addendum below. At the end of this rulemaking effort, USEPA and WDNR may modify this Addendum as necessary.

Section 2 . Permit Administration and Specific Conditions

1. Monitoring for Bioaccumulative Chemicals of Concern (BCC): Pursuant to the authority in s. NR106.05(9), Wis. Adm. Code, if a BCC is known or believed to be present in a discharge to the Great Lakes System, the WDNR will include a monitoring requirement in the WPDES permit for the BCC. (*Appendix E, Section II.D.2. of 40 CFR Part 132*).
2. Tier II Values - Development of Data: If a pollutant listed in Table 6 of Part 132 is known or believed to be present in a WPDES permitted discharge to the Great Lakes System, and there are no pollutant data available to calculate a Tier II value for noncancer human health, acute aquatic life or chronic aquatic life, the WDNR will estimate ambient screening values to protect humans from health effects other than cancer, and aquatic life from acute and chronic effects. The WDNR will then develop preliminary effluent levels (PELs) based on those values and compare them to the permittee's preliminary effluent

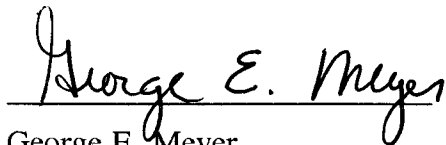
quality (PEQ). If the PEQ exceeds the PELs that were developed based on the screening values, the WDNR will generate sufficient data to calculate Tier II values. (*Section C of Procedure 5 in Appendix F to 40 CFR Part 132.*)

3. Whole Effluent Toxicity (WET) Limits in Lieu of Tier II: If pursuant to s. NR 106.05(1)(c), Wis. Adm. Code, a permittee requests a WET limit under s. NR 106.07(7), Wis. Adm. Code, as an alternative to a Tier II value based limitation, the WDNR agrees to specifically list the pollutant of concern that is the basis for the alternative limit in the permit, and agrees to explain, in the fact sheet, the basis for the alternative limit and how the alternative limit will control the pollutant of concern. In addition, in the event the WDNR determines that the alternative limit is not sufficient to maintain water quality standards, the WDNR will, pursuant to the authority in s. 283.53(2), Stats., reopen the permit to include a Tier II value based limit. (*Paragraph 6.e. of Section C of Procedure 5 in Appendix F to 40 CFR Part 132*)
4. Fish Tissue Reasonable Potential: Pursuant to s. 281.31(3)(d), Stats., and s. NR 106.05(2), Wis. Adm. Code, in cases where the geometric mean of a pollutant in a fish tissue sample collected from a Great Lakes System waterbody exceeds the tissue basis of a Tier I criterion or a Tier II value, after consideration of the variability of the pollutant's bioconcentration and bioaccumulation in fish, the WDNR will impose a limitation in a WPDES permit of each facility that discharges detectable levels of the pollutant to the water body. The WDNR will request permission to initiate rulemaking to clarify this requirement into the state's reasonable potential procedures. (*Paragraph 4 of Section F of Procedure 5 in Appendix F to 40 CFR Part 132.*)
5. Monitoring Requirements - Levels of Quantification: When a water quality-based effluent limitation below the Level of Quantification for a pollutant is included in a permit issued to a Great Lakes System discharger, the WDNR will include the following statement in the permit, "*For pollutants with water quality-based effluent limitations below the Level of Quantification (LOQ) in this permit, the Level of Quantification calculated by the permittee and reported on the Discharge Monitoring Reports is incorporated by reference in this permit. The LOQ shall be reported on the Discharge Monitoring Reports, shall be the lowest quantifiable level practicable, and shall be no greater than the minimum level (ML) specified in or approved under 40 CFR Part 136 for the pollutant at the time this permit was issued, unless this permit specifies a higher LOQ.*" The WDNR further agrees that it will not specify a higher LOQ in the permit unless the permittee demonstrates that a higher LOQ is appropriate because of effluent-specific matrix interference. The WDNR further agrees that if analytical methods more sensitive than the methods specified in ch. NR 219 are promulgated in 40 CFR Part 136, pursuant to the authority in s. 106.07(6), Wis. Adm. Code, when a permit is issued or reissued, the WDNR will require in the WPDES permit that the more sensitive method in 40 CFR Part 136 be used in testing the effluent and calculating the LOQ. (*Section B of Procedure 8 in Appendix F to 40 CFR Part 132.*)
6. Limit of Quantification Compliance Language: The WDNR agrees that it will not include the compliance provisions in s. NR 106.07(6)(c) in WPDES permits issued to dischargers to the Great Lakes System.
7. Pollutant Minimization Program: Pursuant to the authority in ss. NR 106.07(6)(f) and

106.04(5) and s. 283.31(3)(d), Stats., where there is a water quality-based limitation for a pollutant that is below the Level of Quantification (LOQ) in a WPDES permit issued to Great Lakes System discharger, the WDNR will require that the permittee develop and implement a pollutant minimization program that contains all of the elements listed in Section D of Procedure 8 in Appendix F to 40 CFR Part 132, including the requirement for quarterly influent monitoring and semiannual monitoring of potential sources, unless less frequent monitoring or no monitoring, is justified based upon information generated in the pollutant minimization plan. The WDNR will request permission to initiate rulemaking to clarify this intent.

8. Mixing Zones: The WDNR will not approve an alternative mixing zone unless the provisions of Sect. F of Proc. 3 in Appendix F to 40 CFR Part 132 are met.
9. Compliance Schedules for Tier II Limits: Pursuant to s. NR 106.17(2)(c), Wis. Adm. Code, the WDNR will initially limit the compliance schedule for a Tier II value based limitation to no more than five years and will only extend that compliance schedule for a period of up to two more years, if necessary, and if the secondary value studies are completed by the permittee or a third party. Any extension will be done through a permit modification. In addition, any time allowed to conduct studies pursuant to s. NR 106.17(2)(c), Wis. Adm. Code will occur within the first two years of the compliance schedule.

FOR WISCONSIN DEPARTMENT OF NATURAL RESOURCES

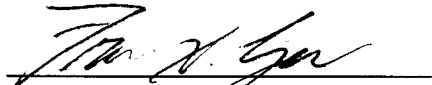


George E. Meyer
Secretary

10/11/00

Date

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY



Francis X. Lyons
Regional Administrator

10/26/00

Date