

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

NOTICE OF FINAL DETERMINATION TO REISSUE A WISCONSIN POLLUTANT DISCHARGE
ELIMINATION SYSTEM (WPDES) GENERAL PERMIT NO. WI-A057681-05-0

General Permit Name: Operation and Maintenance of Industrial Potable and Non-Potable Water Systems and Hydrostatic Testing of Petroleum Systems

Receiving Water and Location: Point source discharges to waters of the state of Wisconsin.

Brief Description of Facilities Covered under General Permit: This general permit is applicable to short-duration point source discharges from operational and maintenance activities for industrial potable and non-potable water systems and hydrostatic testing of petroleum systems and other similar discharges to a water of the state. Discharges from operational and maintenance activities include: Discharge hydrostatic test water from hydrostatic testing any new or existing petroleum system; hydrostatic test water from hydrostatic testing any industrial potable and non-potable water system; and flushing water from the cleaning, disinfecting, and/or flushing industrial potable and non-potable water system.

Permit Drafter's Name, Address, Phone and Email: Trevor J. Moen, DNR, 625 E County Rd Y STE 700, Oshkosh WI 54904-9731, phone: (920) 410-5192 and email: Trevor.Moen@Wisconsin.gov.

Date Permit Signed/Issued: July 14, 2021

Date of Effectiveness: August 1, 2021

Date of Expiration: July 31, 2026

Following the public notice period, the department has made a final determination to reissue the WPDES General Permit No. WI-A057681-05-0. The information from the WPDES permit file, comments received on the proposed permit and applicable Wis. Adm. Codes were used as a basis for this final determination.

The department has the authority to issue, modify, suspend, revoke and reissue or terminate WPDES permits and to establish effluent limitations and permit conditions under ch. 283, Wis. Stats.

Any minor corrections to typographical errors, updating page numbers and headers/footers, adding and updating the Table of Contents and titles, correcting formatting, renumbering headings, and web links are not included in this summary document. The following is a summary of significant comments and any significant changes which have been made in the terms and conditions set forth in the draft permit:

Comments Received from the Applicants, Individuals or Groups

The department received the following comments from Saputo Cheese USA, Inc., on the draft permit.

Electronic Reporting: Currently most of our facilities submit an annual DMR, will those plants reporting requirements change to monthly or will they remain as annual?

Department Response: The general permit does now require submittal of electronic discharge monitoring reports (eDMRs) through the department Switchboard pursuant to Section 5.1 of the general permit and federal electronic reporting rule in 40 CFR Part 127. The reporting frequency of the general permit is stated for each sampling point in the permit under Sections 3.2.1, 3.2.2, 4.2.1 and 4.2.2. The reporting frequency is set to monthly for all sampling points. The eDMRs are due 21 days following the end of month. The eDMRs shall be submitted to the department regardless of whether there is a discharge during any month. Paper copies will no longer be accepted. The general permit does allow the permittee to request a reduced sampling and reporting frequency based on regular flushing schedule for the facility in accordance with Section 3.2.3.

Reporting under Previous Permit: Our facilities that report annually, will they be required to complete a hard copy DMR for the months from 2021 up to the point permit reissuance?

Department Response: Any existing permittee that was previously covered under WPDES Permit No. WI-0057681-04-0 prior to the **Effective Date** of this general permit shall submit any water monitoring data that was conducted and required to be sampled under WPDES Permit No. WI-0057681-04-0 on a paper DMR by July 21, 2021 in accordance with Section 5.2.

The department received the following comments from WEC Energy Group, Inc., on the draft permit.

WEC Energy Group Comment #1: Section 1.1 should be revised to continue to cover discharges from hydrostatic testing under one blanket/statewide coverage to a single permittee.

Department Response: The department has revised the general permit to allow discharges from hydrostatic testing under one blanket/statewide coverage to utility companies that perform hydrostatic testing of utility infrastructure across the state of Wisconsin under Sections 1.1 and Section 2.1.4. The department also added conditions applicable to utility companies authorized blanket/statewide coverage under Section 5.4 to ensure the general permit requirements are being followed for each hydrostatic testing discharge event.

WEC Energy Group Comment #2: The review period of an NOI under Section 2 is excessive and inconsistent with the purpose of the general permit program, including the NR 216 permit process.

Department Response: In accordance with 40 CFR Part 122.28(b)(2)(iii), general permits shall specify the deadlines for submitting notices of intent to be covered and the date(s) when a discharger is authorized to discharge under the permit. Therefore, the department has included a NOI submittal deadline and review time period in general permits. In response to this comment, the department has revised the NOI submittal deadline and review time period from 30 business days to 30 calendar days. The department still has a goal to process applications within 7 to 14 calendar days of receipt. Additionally, see the response to WEC comment #1 for additional streamlining of permit coverage for utilities.

WEC Energy Group Comment #3: Section 1.3 includes a permit exclusion for discharges of water to a sanitary sewer system that conveys the water to a publicly owned wastewater treatment works and should be expanded to include combined sewer areas.

Department Response: The department has expanded the exclusion under Section 1.3 to include combined sewer systems if the conveyed to a publicly owned wastewater treatment works.

WEC Energy Group Comment #4: The introduction to Section 3 needs to be limited to defining how point source discharges are regulated when discharged to surface water consistent with Section 1.

Department Response: The department has revised the introduction under Section 3 and Section 4 to be consistent with Section 1.

WEC Energy Group Comment #5: Conditions 3.2.2 and 4.2.2 contain additional monitoring requirements for BETX, PAH, Benzo(a)pyrene, and naphthalene and should be removed from the permit as these discharges are more appropriately covered under the Petroleum Contaminated Water WPDES General Permit (No. WI-0046531).

Department Response: The department has removed the additional monitoring requirements, except oil and grease, under Sections 3.2.2 and 4.2.2 for discharges from hydrostatic testing of existing petroleum system that have previously contained petroleum products. The discharges of hydrostatic test water from any existing petroleum system that has not been physically cleaned to prevent discharge of petroleum contaminated water from tank bottoms, construction debris, raw material, intermediate product, final product, or waste products are excluded from permit coverage under Section 1.2. These discharges may be more appropriately regulated under the Petroleum Contaminated Water WPDES General Permit (No. WI-0046531). The permit retains the monitoring and limits for oil and grease under Sections 3.2.2 and 4.2.2 to ensure that existing petroleum systems are being properly physically cleaned to prevent discharge of petroleum contaminated water from tank bottoms, construction debris, raw material, intermediate product, final product, or waste products.

WEC Energy Group Comment #6: Condition 3.2.2 contains a monitoring requirement and effluent limit for total residual chlorine. The effluent limit and monitoring requirements are unnecessary and impractical.

Department Response: The department has promulgated acute and chronic water quality standards for total residual chlorine listed in Table 1 and Table 5 of s. NR 105.06, Wis. Adm. Code. The department must ensure that WPDES permits prescribe conditions that are compliance with and protective of water quality standards pursuant to s. 283.31(4), Wis. Stats. Additionally, general permits must ensure that water quality standards are protected in the most conservative discharge scenarios, such as a discharge containing total residual chlorine to a low-flow stream. Therefore, the department has included a daily maximum total residual chlorine limit to be protective of and ensure compliance with the chlorine water quality standards. The chronic water quality standard for total residual chlorine was not considered due to the intermittent nature of the discharges covered by this general permit. Nevertheless, the department has included conditions in the permit that allow the discharger to request a higher total residual chlorine limit of 38 ug/L if a discharge will be a high-flowing stream under Section 3.2.2.2.1 and a total residual chlorine

monitoring waiver if it can be demonstrated that the total residual chlorine levels in the discharge will be dissipated below the chlorine limits prior to entering the surface water under Section 3.2.2.2.3. Also, the department has revised Section 3.2.2.2.3 to include all types of storm water conveyance systems, storm water pond systems (e.g. municipal regional storm water ponds), or combination of both to be used to demonstrate that the total residual chlorine levels will be dissipated below the chlorine limits prior to entering the surface water.

The department is also aware that some approved field or laboratory test methods for total residual chlorine may not have a sensitive enough limit of detection (LOD) below the total residual chlorine effluent limit. Therefore, the department has included Section 3.2.2.2.2 that explains how the permittee can demonstrate compliance with total residual chlorine limits if the limit is below the LOD for the approved chlorine test method used by the permittee.

WEC Energy Group Comment #7: The complexity of implementing the new Section 7.2 NR 207 antidegradation requirements may cause a dramatic workload impact for both our company and department staff.

Department Response: Any proposed new or increased discharge of pollutants to surface water of the state that meets the applicability criteria in Section 1 and the application requirements in Section 2 and for which the department has determined via letter that the discharge is authorized for coverage under this general permit, is in compliance with the antidegradation policy in s. NR 102.05(1)(a), Wis. Adm. Code, and antidegradation evaluation procedures in ch. NR 207, Wis. Adm. Code. The department has revised Section 7.1 to make that clear.

All approved TMDLs considered general permit discharges in their development and set aside total waste load allocations (WLAs) for all general permit holders within each reach and watershed covered by the TMDL. It does not matter if the discharges covered by a general permit are continuous or intermittent. For instance, for the East River under the Lower Fox River TMDL, the total phosphorus and total suspended solids WLAs for general permit holders are 322 lbs/yr (0.88 lbs/day) and 118,364 lbs/yr (324 lbs/day). Facilities operating under general permits will be screened to determine whether additional requirements may be needed to ensure that the permitted activity is consistent with TMDL goals; this may include issuing individual permits or other alternative discharge measures. The department will work with WE Energies and WPS if issues arise with regard to TMDL compliance.

Comments Received from EPA or Other Government Agencies

The department received the following comments from the United States Environmental Protection Agency (EPA) on the draft permit.

Inconsistent Dates: WDNR should Update Section 5.1 **Reporting of Monitoring Results for Previous Permit** of the fact sheet to reflect the date that is stated in section 5.2.

Department Response: The inconsistent dates have been corrected. All required discharge monitoring reports under the previous permit are now due by July 21, 2021.

Reporting of Sampling: EPA requested that the department revise the sampling point language in Section 3.1 and 4.1 of permit as there may be periods of no discharge during a reporting period to: “the permittee is only required to collect samples when there is a discharge to surface water [and groundwater]; if there are no discharges within the sampling frequency the permittee should report no discharge.”

Department Response: The department has revised the sampling point descriptions in Section 3.1 and 4.1 as suggested by EPA.

Petitions for Individual Permit: The department received a comment from EPA to include the individual permit petition language from 40 CFR § 122.28(b)(3)(i) in the general permit.

Department Response: The department does not believe that this is an appropriate permit term or condition, therefore, the department has decided not to make any changes to the permit. The department primarily includes terms and conditions in permits to assure compliance with water quality standards, groundwater protection standards, effluent limitations, and/or technology-based effluent limits. Any person or discharger still maintains the right to petition the department pursuant to ss. NR 205.08 (4) and (5), Wis. Adm. Code and 40 CFR §122.28(b)(3)(i) regardless if it is in the permit.

Standard Conditions: The department received a comment from EPA to revise the standard requirements of general permit to include all the language from s. NR 205.07(1)(j), Wis. Adm. Code for proper operation and maintenance and bypassing from s. NR 205.07(1)(u), Wis. Adm. Code.

Department Response: The department has revised Section 8.2.7 as suggested for the proper operation and maintenance to be consistent with federal and state rules. The department has added the bypassing requirements under Section 8.2.18.

As provided by s. 283.63, Wis. Stats., and ch. 203, Wis. Adm. Code, persons desiring further adjudicative review of this final determination may request a public adjudicatory hearing. A request shall be made by filing a verified petition for review with the Secretary of the Department of Natural Resources within 60 days of the date the permit was signed (see permit signature date above). Further information regarding the conduct and nature of public adjudicatory hearings may be found by reviewing ch. NR 203, Wis. Adm. Code, s. 283.63, Wis. Stats., and other applicable law, including s. 227.42, Wis. Stats.

Information on file for this permit action, including the draft permit and fact sheet may be reviewed on the internet at the above web link or may be inspected and copied at the permit drafter's office during office hours. Information on this permit may also be obtained by calling the permit drafter or by writing to the department. Reasonable costs (usually 20 cents per page) will be charged for copies of information in the file other than the public notice, permit and fact sheet. Pursuant to the Americans with Disabilities Act, reasonable accommodation, including the provision of informational material in an alternative format, will be made to qualified individuals upon request.