

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Tony Evers, Governor
Karen Hyun, Ph.D., Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



Ms. Tera Fong, Director, Water Division
U.S. EPA Region 5
77 West Jackson Blvd., W-15J
Chicago, IL 60604

Subject: Request for Approval of a Variance from Water Quality Standards for Bacteria
Receiving Stream: Various waters of the Milwaukee River Watershed, Menomonee River Watershed, Kinnickinnic Watershed (Milwaukee River Basin), and nearshore waters of Lake Michigan, Milwaukee County
Permittee: Milwaukee Metropolitan Sewerage District - WPDES Permit No. WI-0036820-05-0, Combined Sewer System

Dear Ms. Fong:

In accordance with s. 283.15, Wis. Stats., and 40 CFR 131, the Wisconsin Department of Natural Resources (hereafter Department) requests U.S. EPA, Region 5 to approve a water quality standards variance for the above-referenced discharge. The water quality criterion for which the permittee is seeking a variance is contained in ch. NR 105, Wis. Adm. Code.

To assist your staff during their review, relevant background information pertaining to this variance is attached to this letter. The draft permit and variance were publicly noticed on June 10, 2026, and a hearing for the variance was held on July 28, 2026. The comment period has now ended. Public comments were received relating to the proposed variance.

The Department is committed to working with the permittee during the term of this variance to find a solution that will lead toward full compliance with the applicable water quality standard. Conditions on the variance, which are included in the WPDES permit, specify actions to be taken by the permittee and timetables for those actions. If the variance is approved by EPA, the Department will include the variance limitation and related conditions in the final WPDES permit.

The Department appreciates your consideration of this request. Should you have further questions regarding this matter, please contact Amy Garbe at (608)716-9968.

Sincerely,

Signed by:

Joseph P Van Rossum

30AA5DE79C8A40D

Joe Van Rossum, Deputy Division Administrator
Division of Environmental Management

DATED: 8/21/2026 | 8:00 AM CDT

Attachment

e-cc Jacob Van Susteren-Wedesky – Milwaukee DNR Office
Tim Elkins – EPA Region 5

BACKGROUND INFORMATION REGARDING WATER QUALITY STANDARDS VARIANCE

Receiving Stream and Classification: **Milwaukee River, Warm Water Sport Fishery** (CSO Numbers 015; 016; 017; 018; 051; 089; 090; 091; 092; 094; 096; 097A; 098; 099; 101; 102; 103; 103A; 104; 106; 107; 108B; 109; 110; 111; 112; 113; 113A; 114; 115; 116; 117; 118; 119; 120; 121; 122; 123; 124; 125; 126; 127; 128; 129; 130; 131; 133; 134; 135; 136; 137; 139; 140; 141; 142; 143; 144; 146; 147; 230); **Kinnickinnic River, Default Fish and Aquatic Life** (CSO Numbers 019; 148; 149; 151; 152; 153; 154; 155; 156; 157; 158; 159; 160; 161; 162; 163; 164; 165; 166; 166A; 167; 168; 169; 260); **Menomonee River, Default Fish and Aquatic Life** (CSO Numbers 010; 170; 172; 173; 174; 175; 176; 177; 177A; 178; 180; 181; 182; 182A; 183; 184; 185; 262); **Burnham Canal, Default Fish and Aquatic Life** (CSO Numbers 189; 190; 191; 193; 194) **South Menomonee Canal; Default Fish and Aquatic Life** (CSO Numbers 061; 187; 188); **Lincoln Creek, Default Fish and Aquatic Life** (CSO Number 145; 197); **Lake Michigan nearshore, Default Fish and Aquatic Life** (CSO Numbers 195; 196)

Criterion: **126 #/100 mL and 410 #/mL 10 percent exceedance recreational use criterion in ch. NR 102, Wis. Adm. Code**

Water Quality Based Effluent Limit: **126 #/100 mL as a geomean of samples collected in any rolling 90-day period and statistical threshold value of 10 percent of samples collected not to exceed 410 #/100 mL in any rolling 90-day period.**

Existing Permit Conditions/Requirements: **Narrative limit consistent with national Combined Sewer Overflow Performance Standards and numeric standards consistent with the presumptive approach under the CSO Control Policy; maintaining either $\geq 85\%$ capture and treatment volume or ≤ 6 CSO events occurring in any calendar year.**

Permit Conditions/Requirements Based on Proposed Variance: **Narrative limit consistent with national Combined Sewer Overflow Performance Standards and numeric standards consistent with the presumptive approach under the CSO Control Policy; maintaining $\geq 85\%$ capture and treatment volume and ≤ 3 CSO events on a rolling 5-year average.**

Duration of Variance: **Five years - from the effective date of permit reissuance through the proposed permit expiration date of September 30, 2031**

Department Rationale for Approving Variance:

The Department concludes that the applicant has met the requirements of s. 283.15, Wis. Stats. In the supporting documentation provided by MMSD, the CSOs alternatives would cause more environmental damage than the CSOs. The Department therefore proposes to grant the variance for bacteria.

Conditions to be Included in WPDES Permit: **See Draft Permit being sent to EPA in Electronic Format.**

Attachments:

Facility Specific Standard Variance Data Sheet

Certification from DNR Attorney – Bureau of Legal Services