

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

NOTICE OF FINAL DETERMINATION TO REISSUE A WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM (WPDES) GENERAL PERMIT No. WI-0057657-07 (“Landspreading of Industrial Sludge”)

Brief Description of Facilities Covered under General Permit: This permit is applicable to sludge spreading systems or commonly referred to as landspreading of industrial sludge from an industrial, commercial, or agricultural facility. This general permit is also applicable to low volume or temporary landspreading of industrial sludge or interim landspreading of high-volume industrial sludge until an individual WPDES permit is issued or modified to include the discharge. “Sludge” means the accumulated solids generated during the biological, physical or chemical treatment, coagulation or sedimentation of water or wastewater (per s. NR 214.03(34), Wis. Adm. Code). Industrial sludge typically consists of settled organic matter from the treatment of wastewater from industries processing dairy products, vegetable products, and animal products. All landspread industrial sludges shall have no detrimental effect on soils, vegetation, or groundwater of a land spreading system and shall have beneficial properties as a soil conditioner or fertilizer (per s. NR 214.02, Wis. Adm. Code).

Permit Drafter’s Name, Address and Phone: Stephen Warrner, Wisconsin DNR, 1027 West St. Paul Avenue, Milwaukee, WI 53233, (414) 897-5771

Date Permit Signed/Issued: September 13, 2024

Date of Effectiveness: 01/01/2025

Date of Expiration: 12/31/2029

Public Informational Hearing Held On: N/A

Following the public notice period, the department has made a final determination to reissue WPDES General Permit No. WI-0057657-07. The information from the WPDES permit file, comments received on the proposed WPDES 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, Stats.

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 WPDES general permits:

Comments Received from the Applicants, Individuals, or Groups

Midwest Food Products Association (MWFPA) Comment #1: *“Sampling Requirements. MWFPA first requests that the Department reconsider increased sampling requirements proposed in the Draft Permits. Two of the Draft Permits (for land applying industrial sludge and byproduct solids) increase sampling frequency for many parameters to quarterly from annually. Additionally, two of the Draft Permits (for land applying industrial liquid wastes and byproduct solids) now require sampling for potassium as a new parameter.*

MWFPA questions the need for these changes, which would increase cost and regulatory burden for entities seeking coverage under these general permits. As the Department's Permit Fact Sheets observe, these general permits are most often used to authorize low-volume application of industrial wastes, to permit short-term or one-time application needs, or to address an interim need for a permit until an individual WPDES permit can be issued. We question whether a quarterly sampling frequency is needed to address regulatory concerns presented by these types of low-volume and/or short-term discharges.

Likewise, we are unaware of any environmental concerns that necessitate sampling of industrial liquid wastes or byproduct solids for potassium. To the extent that landowners or farmers managing agricultural fields used for land application are interested in obtaining potassium data for nutrient management purposes, permittees and the landowner/farmer can agree to conduct sampling on a voluntary basis or pursuant to a contractual arrangement between the parties—just as they would have done in the past.”

Department Response: The department increased sampling frequency requirements from annual to quarterly in both the “Landspreading of Industrial By-Product Solids” and “Landspreading of Industrial Sludge” general permits. The department is authorized under ss. 214.17(5)(b) and 214.18(5)(b), Wis. Adm. Code, to set the required frequency of monitoring based on probable environmental impact, past operating performance, characteristics of pollutants in the discharge, and other relevant information. Increased sampling frequency ensures representative sample collection and accurate calculation of pollutant loading rates (example: nitrogen pounds/acre/crop year). Increased (representative) sample collection is necessary for industrial permittees that change production lines within a calendar year (example: canning operations that process a variety of vegetables across the packing season) as well as permittees with small waste storage capabilities (example: less than one week of waste storage). Short-term or one-time discharge events would likely result in a small number of sampling events. Note: Monitoring is only required during time periods when the permittee landspreads industrial wastes. The permittee is still required to submit all quarterly Wastewater Characteristic Reports (forms 3400-049).

The department added potassium sampling requirements for potassium to both the “Landspreading of Industrial By-Product Solids” and “Landspreading of Industrial Liquid Waste” general permits. Potassium is an important macro nutrient for plant growth. Addition of potassium to the soil can improve root growth (drought tolerance), maintain turgor (reduce water loss), aid in photosynthesis and food formation, etc. As part of the Wisconsin’s nutrient management plan (NMP) requirements (Wisconsin NRCS 590 Standard), a producer must account for all fertilizers they have used over the NMP cycle. Potassium data provides the producer the amount of potassium available for the intended crop, as the absence of potassium may limit crop grown and uptake of nitrogen and phosphorus. In addition, potassium data allows the department to verify that sludges applied are done so as beneficial reuse as required by ss. NR 214.02(1) and 214.18(1), Wis. Adm. Code. The department may require in a WPDES permit those industrial wastes (industrial liquid waste, by-product solids, and industrial sludge) be monitored for any other pollutant (potassium) that may be present (references: ss. NR 214.17(5)(b) and NR 214.18(5)(b), Wis. Adm. Code).

In response to this comment, the department has not made any changes to the monitoring frequency or pollutant monitoring list, and thus, quarterly monitoring and the pre-existing potassium monitoring remain in the final (reissued) general permit.

Midwest Food Products Association (MWFPA) Comment #2: *“Management Plans. Section 7.3 of the Draft Permits requires management plans meet specific, mandatory content requirements. These requirements appear to reduce permittees’ flexibility in preparing management plans that best fit the specific circumstances associated with the regulated facility.*

As a result of these specific content requirements, permittees may be required to substantially revise past management plans simply to meet the Section 7.3 requirements in the reissued general permits. See Section 7.2 of the Draft Permits (“ . . . [I]f the department determines that a previously approved management plan must be amended to comply with the conditions of this permit . . . , the permittee shall submit an amended landspreading management plan to the department not more than 60 days from the date that coverage under this permit was granted.”)

Substantial revision may be required even where there has been no material change in facility operations or proposed land application activities since the management plan was last prepared. This represents an unnecessary cost and administrative burden on permittees.

The specific content requirements delineated in Section 7.3 of the Draft Permits also exceed what is required by Chapter NR 214, Wis. Admin. Code. Applicable to these permits, sections NR 214.17(6)(c) and NR 214.18(6)(c) identify required content for management plans and do not explicitly include all items listed in Section 7.3 of the Draft Permits.

Based on the foregoing, we suggest that the list of required content in management plans in Section 7.3 of the Draft Permits be removed and provided to regulated entities only as non-binding guidance.”

Department Response: The department requires each industrial permittee to submit a management plan for optimizing system performance and demonstrating compliance with the requirements of ch. NR 214, Wis. Adm. Code. Following approval by the department, the permittee shall be operated in conformance with the management plan.

In many instances, aspects of the permittee’s operation change during the 5-year permit term (examples of changes include but are not limited to: changes to production line(s) resulting in changes to wastes generated, hiring a different landspreading contractor, and utilization of new landspreading equipment). Often these changes require that the permittee submit a written request for approval to amend the management plan (references: pars. NR 214.17(6)(c) and NR 214.18(6)(c), Wis. Adm. Code. During WPDES permit renewal process, department staff may identify permittees that have made operational changes; in these instances, the department reserves the right to request an amended management plan within 60 days of permit reissuance.

Pars. NR 214.17(6)(c) and NR 214.18(6)(c), Wis. Adm. Code specify the information required in a management plan. The department may also require any other pertinent information necessary to protect public health and the waters of the state. This information may include waste-specific and/or facility-specific information or requirements.

The management plan requirements have not changed from the previous permit. The management plan content from the previous permit has now been moved to section 7.3 of the permit and the language was updated to provide improved clarity. Items specified under the “Management Plan Content” section are necessary to ensure compliance with ss. NR 214.05, NR 214.17, and NR 214.18, Wis. Adm. Code.

In response to this comment, the department has made minor changes to the ‘Management Plan Content’ section of the final (reissued) general permit. This section now identifies recommended Standard Operating Procedures (SOPs) commonly included in the management plan to comply with conditions of the WPDES permit and ch. NR 214, Wis. Adm. Code. Often permittees include these SOPs in a comprehensive management plan for staff, contractors, etc. to reference and ensure compliance.

Public Adjudicatory Hearing and Permit File Information

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 or 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.