

Appendix A – Section 283.84, Wis. Stats.

Last Updated: March 2026

Trading of Water Pollution Credits

(1) The department shall administer a program for the trading of water pollution credits that is consistent with the federal Water Pollution Control Act, 33 USC 1251 to 1387. Subject to sub. (1m), under the program the department may authorize a person required to obtain a permit to increase the discharge of pollutants above levels that would otherwise be authorized in the permit if the person does one of the following:

(a) Reaches a binding, written agreement with another person who is required to obtain a permit under which the other person agrees to reduce the discharge of pollutants below the levels that would otherwise be authorized in the other person's permit.

(b) Reaches a binding, written agreement with another person who is not required to obtain a permit under which the other person agrees to reduce the amount of water pollution that it causes below the levels of water pollution that it causes when the agreement is reached.

(c) Reaches a binding, written agreement with the department or a local governmental unit, as defined in s. 16.97 (7), under which the person pays money to the department or local governmental unit and the department or local governmental unit uses the money to reduce water pollution or to provide cost-sharing, for the purposes of s. 281.16 (3) (e) or (4), for projects to reduce water pollution.

(d) Reaches a binding, written agreement with the department under which the person reduces the discharge of pollutants under another permit that the person holds below the levels that would otherwise be authorized in the other permit.

(e) Reaches a binding, written agreement with the department under which the person constructs a project or implements a plan that results in reducing the amount of water pollution from sources other than the source covered by the permit.

(f) Reaches a binding, written agreement with a clearinghouse that holds a valid contract under s. 16.9685 to purchase credits from the clearinghouse, if the clearinghouse has consulted with the department about the agreement to the extent required under the contract under s. 16.9685.

(g) Reaches a binding, written agreement approved by the department with a 3rd party under which the 3rd party agrees to work with one or more persons, other than the permit holder, to reduce the amount of water pollution that those persons cause below the levels of water pollution that those persons cause when the agreement is reached. If an agreement is reached under this paragraph, the person who is required to obtain a permit or the 3rd party shall notify the clearinghouse that holds a valid contract under s. 16.9685, if any, and shall report to the clearinghouse, in the time and manner specified by the department, any information that the department, in consultation with the department of administration, determines is reasonable and necessary for the operation of the centralized registry under s. 16.9685 (3) (h). The 3rd party shall also verify the credit by

reporting to the department of natural resources any pertinent information regarding the agreement and the related water pollution reduction activities, including the location of the activities; the type of practice or technology used; any maintenance schedule; the frequency of inspections; the duration for which the credit is valid; and the amount of credits generated by the water pollution reduction activities.

(1e) No later than 45 days after reviewing the information provided under s. 16.9685 (3) (g) and (h), the department shall certify the amount of credits and the duration of the credits available for sale.

(1m) Under the program, the department may authorize a person to increase a discharge of pollutants above levels that would otherwise be authorized in the permit only if all of the following apply:

(a) The agreement under sub. (1) results in an improvement in water quality.

(b) The increase in pollutants and the reduction in pollutants provided for in the agreement under sub. (1) involve the same pollutant or the same water quality standard.

(d) Except as provided under par. (e) 1., the increase in pollutants and the reduction in pollutants occur within the same basin or portion of a basin, as determined by the department.

(e)

1. If the person has entered into an agreement under sub. (1) (f) or (g), the increase in pollutants and the reduction in pollutants occur within the same applicable hydrologic area, as determined by the department.

2. In this paragraph, “applicable hydrologic area” means the largest area possible within this state to facilitate implementation of this section while achieving water quality standards and any applicable federally approved total maximum daily load allocations.

(3m) A person engaged in mining, as defined in s. 293.01 (9) or 295.41 (26), prospecting, as defined in s. 293.01 (18), bulk sampling, as defined in s. 293.01 (2m) or 295.41 (7), or nonmetallic mining, as defined in s. 295.11 (3), may not enter into an agreement under sub. (1).

(3r) The department shall include terms and conditions related to agreements under sub. (1) in new and reissued permits. The department shall determine how to incorporate credits purchased under sub. (1) (f) and the terms and conditions related to agreements entered into under sub. (1) (g) into new and reissued permits.

(4) The department shall modify the permits of persons entering into agreements under sub. (1) to enable the agreements to be implemented and to include terms and conditions related to the agreements.

(5) The department may enter into a memorandum of understanding with the federal environmental protection agency relating to the administration of this section and s. 16.9685 in relation to the operations of a central clearinghouse.

(6) The department may promulgate rules for the administration of this section.

History: 1997 a. 27; 2001 a. 16; 2003 a. 33; 2011 a. 151; 2013 a. 1; 2017 a. 134; 2019 a. 151.