Chapter NR 201, Fact Sheet for WPDES Permits

The wording/language at NR 201.01 is not consistent with federal language written at 40 CFR 124.8(a). WDNR should clarify how any interested person is equivalent to any other person, or a simple fix would be to incorporate federal language as written into NR 201.01. (See below comparison of state rule compared to federal rule.

NR 201.01 Purpose. The purpose of this chapter is to identify when the department shall prepare a fact sheet for a draft Wisconsin Pollutant discharge Elimination System (WPDES) permit, and what information shall be included in the fact sheet. The fact sheet describes the discharge to be permitted with a brief explanation of the draft permit's effluent limits, monitoring requirements, and other conditions. The department shall send a copy of the fact sheet to the applicant and any interested person upon request.

40 CFR 124.8. **40 C.F.R. § 124.8 – Fact sheet**

(*Applicable to State programs, see §§ 123.25 (NPDES) …)*

(a) A fact sheet shall be prepared for every draft permit for a …NPDES facility or activity … for every NPDES general permit (§ … 122.28), for every NPDES draft permit that incorporates a variance or requires an explanation under § 124.56(b)… The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Director shall send this fact sheet to the applicant and, on request, to any other person.

(b) The fact sheet shall include, when applicable:
(1) A brief description of the type of facility or activity which is the subject of the draft permit;
(2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being … discharged….
(5) Reasons why any requested variances or alternatives to required standards do or do not appear justified;
(6) A description of the procedures for reaching a final decision on the draft permit including:
(i) The beginning and ending dates of the comment period under § 124.10 and the address where comments will be received;
(ii) Procedures for requesting a hearing and the nature of that hearing; and
(iii) Any other procedures by which the public may participate in the final decision.
(7) Name and telephone number of a person to contact for additional information.
(8) For NPDES permits, provisions satisfying the requirements of § 124.56.
(9) Justification for waiver of any application requirements under § 122.21(j) or (q) of this chapter.

40 C.F.R. § 124.56 – Fact Sheets
(*Applicable to State programs, see § 123.25 (NPDES).*) In addition to meeting the requirements of § 124.8, NPDES fact sheets shall contain the following:**(a)** Any calculations or other necessary explanation

of the derivation of specific effluent limitations and conditions or standards for sewage sludge use or disposal, including a citation to the applicable effluent limitation guideline, performance standard, or standard for sewage sludge use or disposal as required by § 122.44 and reasons why they are applicable or an explanation of how the alternate effluent limitations were developed.**(b)(1)** When the draft permit contains any of the following conditions, an explanation of the reasons that such conditions are applicable:**(i)** Limitations to control toxic pollutants under § 122.44(e) of this chapter;**(ii)** Limitations on internal waste streams under § 122.45(i) of this chapter;**(iii)** Limitations on indicator pollutants under § 125.3(g) of this chapter;**(iv)** Limitations set on a case-by-case basis under § 125.3 (c)(2) or (c)(3) of this chapter, or pursuant to Section 405(d)(4) of the CWA;**(v)** Limitations to meet the criteria for permit issuance under § 122.4(i) of this chapter, or**(vi)** Waivers from monitoring requirements granted under § 122.44(a) of this chapter.**(2)** For every permit to be issued to a treatment works owned by a person other than a State or municipality, an explanation of the Director's decision on regulation of users under § 122.44(m).**(c)** When appropriate, a sketch or detailed description of the location of the discharge or regulated activity described in the application....

Wis. Admin. Code NR § 201.01 – Purpose

The purpose of this chapter is to identify when the department shall prepare a fact sheet for a draft Wisconsin Pollutant Discharge Elimination System (WPDES) permit, and what information shall be included in the fact sheet. The fact sheet describes the discharge to be permitted with a brief explanation of the draft permit's effluent limits, monitoring requirements, and other conditions. The department shall send a copy of the fact sheet to the applicant and any interested person upon request.

Wis. Admin. Code NR § 201.02 – Applicability

The department shall prepare a fact sheet for each discharge for which it proposes to issue a WPDES individual permit under s. 283.31, Stats., a storm water permit under s. 283.33, Stats., or a general permit under s. 283.35, Stats. A fact sheet does not need to be prepared for each facility that is granted coverage under a general permit that covers a specific category of discharge.

Wis. Admin. Code NR § 201.03 – Contents of permit fact sheet

The fact sheet shall include all of the following information if applicable:
(1) The name and address of the applicant and facility location where the discharge occurs.

(2) A statement as to whether the discharge is in existence or is a proposed new discharge or new source.

(3) Justification for any waivers from permit application requirements that were granted.

(4) A brief description of the type of facility and activity resulting in the discharge that is described in the permit application and is subject to the permit requirements.

(5) A sketch or detailed description of the discharge outfall location with respect to the receiving water, surface water, or groundwater as applicable.

(6) A description of the type and quantity of discharges regulated under the permit shall include all of the following:

(a) Information about the wastewater sources and by–product solids, biosolids, or sludges.
(b) Treatment processes, storage facilities, and outfalls.
(c) The average daily discharge concentration and mass loading where appropriate of any pollutants subject to effluent limitations.
(d) The average daily flow in gallons or millions of gallons per day for continuous flows or the volume and frequency of batch discharges.
(e) The average monthly effluent temperatures for thermal discharge outfalls that may be subject to temperature limitations.

(7) If the tentative determination is to issue a permit all of the following shall be included:
(a) An explanation of the derivation of proposed effluent limitations for those pollutants proposed to be limited including: toxic pollutants, internal waste streams, and indicator pollutants. Include the calculation of any water quality based effluent limitations, technology based limitations, best professional judgment limitations established on a case–by–case basis, and limitations that are established for new sources or new discharges.
(b) Justification for any waivers granted from monitoring any pollutants contained in technology based effluent limit guidelines because the pollutant is not present or is only present at the background level due to the water intake without any increase of the pollutant from the activities of the discharger.
(c) A brief discussion and rationale of any proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations. For schedules to achieve compliance with water quality based effluent limitations, a brief description of treatment technologies or control strategies that may be available to achieve compliance.
(d) A brief summary of and basis for any proposed permit conditions including supporting regulatory or statutory references, which will have a significant impact on the discharge described in the application.
(e) An explanation of the limitations, conditions or standards included in the permit regarding by –product solids, biosolids, or sludges, and a description of the land application plan or other means of disposal.

(8) A brief description of the uses for which the receiving waters have been classified and of the applicable water quality standards and effluent limitations.

(9) A statement of the tentative determination to issue or deny a permit.

(10) A description of the procedures for reaching a final decision on the draft permit including all of the following:
(a) The beginning and ending date of the 30 day period for submitting written comments.
(b) The address where comments will be received.
(c) Procedures for requesting a public hearing and a statement on the nature of such hearings.
(d) Any other procedures for public participation in the final determination.
(e) Name and contact information of the person from whom to obtain additional information.

(11) For every permit issued to a privately owned treatment works an explanation of any conditions expressly applicable to any user of the treatment works, as a limited co–permittee, that may be necessary in the permit to ensure compliance. If separate permits are issued to the treatment works and to its users, an explanation of the department's decision to issue the permits and what conditions are applicable to the treatment works and users.

(12) Any of the following supplemental information shall also be attached to the fact sheet to provide

supporting information for permit limits, conditions, or other requirements when applicable to the permitted discharge:
(a) Substantial compliance determination for an existing discharger.
(b) Water quality based effluent limits recommendation with limits calculations.
(c) Water quality variance or alternative effluent limit.
(d) Water intake evaluation for determining compliance with s. 283.31 (6), Stats.
(e) Groundwater evaluation of land treatment systems, land application systems, and storage facilities that have an associated monitoring well system.
(f) The assumptions and information used by the department to calculate any mixing zones for the discharge.

(13) If any of the specified fact sheet contents in this section are included in the public notice of the permit, that information may be omitted from the fact sheet. The items identified in subs. (9) and (10) are typically included in the public notice.