



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 01 2016

REPLY TO THE ATTENTION OF:
WN-16J

MEMORANDUM

SUBJECT: Wisconsin Legal Authority Review - Review and Recommendation of Resolution for Issue 68

FROM: Kevin Pierard, Chief 
NPDES Permits Branch

TO: File

Issue 68 (Compliance Statutory Language)

In EPA's July 11, 2011 letter to the Wisconsin Department of Natural Resources (WDNR), Issue 68 stated the following:

The CWA requires that effluent limitations will be established "in no case later than 3 years after the date such limitations are established, and in no case later than March 31, 1989." 33 U.S.C. § 1311(b)(2)(F). Wisconsin law requires effluent limitations to be established "not later than 3 years after the date effluent limitations are established, but in no case before July 1, 1984 or after July 1, 1987. Wis. Stat. § 283.13(2)(f). The State must explain the basis for the discrepancy of dates given in the State provision. If a statutory amendment is required to address this deficiency, the State must explain in its response to this letter what timetable the State will follow to address this deficiency.

Letter from Susan Hedman, Regional Administrator, U.S. EPA, to Cathy Stepp, Secretary, WDNR (July 11, 2011) (on file with U.S. EPA).

Analysis

The dates to establish certain effluent limitations set forth in Wis. Stat. § 283.13(2)(f) (2013) are not consistent with 33 U.S.C. § 1311(b)(2)(F). For example, the July 1, 1987 Wisconsin deadline to establish effluent limitations does not align with the March 31, 1989 Federal deadline. However, the dates set forth in both the Wisconsin and Federal statutes passed more than two decades ago. The effect of revising Wis. Stat. § 283.13(2)(f) to match 33 U.S.C. § 1311(b)(2)(F) would be cosmetic and would have no impact on the operation of Wisconsin's National Pollutant Discharge Elimination System (NPDES) program.

Conclusion

Based on EPA's above review, EPA concludes that Issue 68 has been resolved, as previously communicated in EPA's December 5, 2012 letter to WDNR, so long as Wis. Stat. § 283.13(2)(f) is not construed to limit WDNR's ability to adopt effluent limitations for other pollutants. Letter from Tinka G. Hyde, Water Division Director, U.S. EPA, to Kenneth G. Johnson, Administrator Division of Water, WDNR (Dec. 5, 2012) (on file with U.S. EPA).