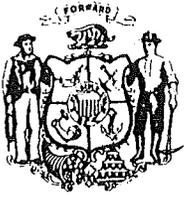


CR 85-182



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

STATE OF WISCONSIN)
DEPARTMENT OF NATURAL RESOURCES) ss

RECEIVED

JUL 18 1986
9:50
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. WW-44-85 was duly approved and adopted by this Department on May 29, 1986. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at General Executive Facility #2 in the City of Madison, this 14th day of July, 1986.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

8301K

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

RENUMBERING, AMENDING, REPEALING AND RECREATING,

AND CREATING RULES

.....
IN THE MATTER of repealing s. NR 211.03(6); .
renumbering ss. NR 211.03(1), (2), (3), (4), .
(5), (7), (8), (9), (10), (11), (12), (13), .
(14) and (15); amending ss. NR 211.15(1)(d), .
211.15(1)(e)3, 211.15(1)(h), 211.25(3)(a) and .
211.30; and creating ss. NR 211.03(1), (3), .
(5), (9), (18), (19), (20), (21), 211.12 and .
211.13 of the Wisconsin Administrative Code .
pertaining to general pretreatment requirements .
.....

WW-44-85

Analysis Prepared by the Department of Natural Resources

The effect of the repealing of s. NR 211.03(6), the renumbering of ss. NR 211.03(1), (2), (3), (4), (5), (7), (8), (9), (10), (11), (12), (13), (14) and (15), and the creating of ss. NR 211.03(1), (3), (5), (9), (18), (19), (20), and (21) is to update the definitional section of the code and to keep the definitions in alphabetical order. These revisions reflect changes made by the United States Environmental Protection Agency in 40 C.F.R. s. 403.3.

The effect of the creating of s. NR 211.12 is to add a provision in the code for use of the combined wastestream formula for industries where 2 or more wastestreams with different categorical standards are combined before entry into a publicly owned treatment work (POTW). The combined wastestream formula allows the discharger to apply one categorical standard to the combined wastestream.

The effect of the creating of s. NR 211.13 is to add a provision in the code allowing authorized POTWs to grant credits to dischargers for pollutants removed by the POTW. The U.S. EPA has already established this provision in 40 C.F.R. s. 403.7 under the authority of s. 307 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq., as amended by the Clean Water Act of 1977, P.L. 95-217).

Both the combined wastestream formula and the removal credit allowance are codified in 40 C.F.R. 403, thus by adding them to the code we are maintaining consistency with the federal regulations. The effect of the amending of ss. NR 211.15(1)(d), (1)(e)3, (1)(h) and 211.30 is to update the code in regards to sections affected by the combined wastestream formula or the removal credit allowance.

Note: On April 30, 1986 the United States Court of Appeals for the Third Circuit concluded that "EPA's 1984 removal credit rule fails to meet the requirements mandated by statute", and returned the removal credit provisions of the Federal General Pretreatment Regulations, 40 CFR 403.7, to the U.S. Environmental Protection Agency for review. The 1984 provisions of 40 CFR 403.7 are incorporated in s. NR 211.13 of the Wisconsin Administrative Code. Until the Federal removal credit regulations are reinstated or revised, in whole or in part, the Department will suspend implementation of the provisions of s. NR 211.13 and will publish this notice of intent in the Wisconsin Administrative Register.

SECTION 7. NR 211.03(9), (18), (19), (20) and (21) are created to read:

NR 211.03(9) "New source" means any building, structure, facility, or installation which discharges or may discharge pollutants, the construction of which commenced after the publication of proposed pretreatment standards in the federal register which will be applicable to such source if such standards are promulgated in accordance with s. 307(c) of the federal clean water act; 33 U.S.C. 1251 et seq.

(18) "Regulated stream" means a stream regulated by a categorical pretreatment standard.

(19) "Removal" means a reduction in the amount of a pollutant in the POTW's effluent or alteration of a pollutant during treatment at the POTW. The reduction or alteration may be physical, chemical or biological and may be the result of designed POTW capabilities or incidental to the operation of the treatment system. Removal does not mean dilution of a pollutant in the POTW.

(20) "Sludge requirements" mean the following statutory provisions and regulations or permits issued pursuant to them: s. 405 of the federal clean water act; 33 U.S.C. 1251 et seq.; the solid waste disposal act (SWDA), 42 U.S.C. 6901 et seq.; the federal clean air act, 42 U.S.C. 1857 et seq.; the toxic substances control act, 15 U.S.C. 2601 et seq.; the marine protection, research and sanctuaries act, 33 U.S.C. 1401 et seq.; and ch. 144, Stats.

(21) "Unregulated stream" means a stream not regulated by a categorical pretreatment standard.

SECTION 8. NR 211.12 and 211.13 are created to read:

NR 211.12 COMBINED WASTESTREAM FORMULA. (1) Where effluent from a process regulated by a categorical pretreatment standard is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be established by the control authority or by the industrial user with the written concurrence of the control authority. These alternative limits shall apply to the mixed effluent. When deriving alternative categorical limits, the control authority or industrial user shall calculate both an alternative daily maximum value using the daily maximum values specified in the appropriate categorical pretreatment standards and an alternative consecutive sampling day average value using the long-term average values specified in the appropriate categorical pretreatment standards. The

1. Boiler blow down streams and non-contact cooling streams. However, where such streams contain a significant amount of a pollutant, and the combination prior to treatment of such streams, with an Industrial user's regulated process wastestreams will result in a substantial reduction of that pollutant, the control authority, upon Industrial user application, may exercise its discretion to determine whether such streams should be classified as diluted or unregulated. In its application to the control authority, the Industrial user shall provide engineering, production, sampling and analysis and other information necessary for the control authority to make its determinations, or

2. Sanitary wastestreams where such streams are not regulated by a categorical pretreatment standard,

Note: F_D also includes the average daily flow from any process wastestreams which were or could have been entirely exempted from categorical pretreatment standards pursuant to paragraph 8 of the NRDC v. Costle Consent Decree (12 ERC 1833) for one or more of the following reasons:

- a. The pollutants regulated by the categorical pretreatment standard used in the formula are not detectable in the effluent from the Industrial user (paragraph (8)(a)(iii));
- b. The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph (8)(a)(iii));
- c. The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the administrator of the United States Environmental Protection Agency (paragraph (8)(a)(iii)); or
- d. The wastestream contains only pollutants which are compatible with the POTW (paragraph (8)(b)(i)).

F_T = The average daily flow (at least a 30-day average) through the combined treatment facility (includes F_I , F_D and unregulated streams).

N = The total number of regulated streams.

(b) Alternative mass limit.

$$M_T = \left(\sum_{i=1}^N M_i \right) \left(\frac{F_T - F_D}{\sum_{i=1}^N F_i} \right)$$

(3) ALTERNATE LIMITS BELOW DETECTION LIMIT. An alternative pretreatment limit may not be used if the alternative limit is below the analytical detection limit for any of the regulated pollutants.

(4) SELF-MONITORING. Self-monitoring to insure compliance with the alternative categorical limit shall be as follows:

(a) The type and frequency of sampling, analysis and flow measurement shall be the self-monitoring requirements of the appropriate categorical pretreatment standards, or as approved by the control authority.

(b) Where the self-monitoring schedules for the appropriate standards differ, monitoring shall be done according to the most frequent schedule;

(c) Where flow determines the frequency of self-monitoring in a categorical pretreatment standard, the sum of all regulated flows (F_1) shall be used to determine self-monitoring frequency.

NR 211.13 REMOVAL CREDITS. Note: On April 30, 1986 the United States Court of Appeals for the Third Circuit concluded that "EPA's 1984 removal credit rule fails to meet the requirements mandated by statute", and returned the removal credit provisions of the Federal General Pretreatment Regulations, 40 CFR 403.7, to the U.S. Environmental Protection Agency for review. The 1984 provisions of 40 CFR 403.7 are incorporated in s. NR 211.13 of the Wisconsin Administrative Code. Until the Federal removal credit regulations are reinstated or revised, in whole or in part, the Department will suspend implementation of the provisions of s. NR 211.13 and will publish this notice of intent in the Wisconsin Administrative Register.

(1)(a) Any POTW receiving wastes from an industrial user to which a categorical pretreatment standard applies may, subject to the conditions of this section, grant removal credits for removal by the POTW of pollutants specified in the categorical pretreatment standard. The POTW may grant a removal credit equal to or less than its consistent removal rate. Upon being granted a removal credit, each affected industrial user shall calculate its revised discharge limits in accordance with par. (c).

(b) A POTW may give removal credits only if:

1. The POTW applies for and receives authorization from the department to give a removal credit in accordance with the requirements and procedures specified in sub. (5). Removal credits may only be given

(2) DEMONSTRATION OF CONSISTENT REMOVAL. In order to demonstrate consistent removal, the POTW shall, for each pollutant which removal credit authorization is sought, collect influent and effluent data and calculate consistent removal in accordance with the following requirements:

(a) At least 12 representative samples of influent and effluent shall be taken at approximately equal intervals throughout one full year. Upon concurrence of the department, a POTW may utilize a historical data base either in lieu of or as a supplement to these 12 samples. In order to be approved, the historical data base shall represent the yearly and seasonal conditions to which the POTW is subject and the POTW's performance for at least one year. Alternatively, a POTW, upon approval of the department, may utilize an alternative sampling design, if the samples to be taken represent the POTW's normal operating conditions and the different seasonal conditions to which the POTW is subject.

(b) The POTW shall use the composite sampling method unless the grab sampling method is more appropriate.

1. Composite method. a. Influent and effluent operational data should be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots shall be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites shall be flow proportional to either the stream flow at the time of collection of the influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots shall be combined in the laboratory immediately before analysis.

b. Effluent sample collection need not be delayed to compensate for hydraulic detention. However, the POTW may elect to include detention time compensation or the department may require detention time compensation. The department may require that each effluent sample is taken approximately one detention time later than the corresponding influent sample if necessary to represent actual POTW operation. The detention period shall be based on a 24-hour average daily flow value. The average daily flow shall be based on the average of the daily flows during the same month of the previous year.

The average concentrations of the pollutant in the influent and effluent shall be calculated by taking the arithmetic average of all influent and effluent data, respectively. In calculating consistent removal under this subdivision, all sample data shall be used.

3. If a pollutant is only measurable in some of the influent and effluent samples (including the situation where it is not measurable in any effluent samples) and the POTW elects to calculate consistent removal in accordance with subd. 2, influent and effluent observations below the limit of detectability shall be assigned a value equal to the limit of detectability. In calculating consistent removal under subd. 2 all sample data, including those set at the limit of detectability, shall be used.

4. If a pollutant is only measurable in some influent and effluent samples (including the situation where it is not measurable in any effluent samples) and the POTW elects not to calculate consistent removal in accordance with subd. 2, or if a pollutant is not measurable in any of the influent samples (in which case the sample data may not be used to calculate consistent removal in accordance with subd. 2), the POTW may:

- a. Use historical data as provided in par. (a) to calculate consistent removal, or
- b. Upon the concurrence of the department, the POTW may use data from treatability studies, demonstrated removal at similar treatment facilities or provide some other alternative means to demonstrate its consistent removal.

(3) PROVISIONAL CREDITS. For pollutants which are not discharged currently (i.e., new or modified facilities, or production changes) the POTW may apply for authorization to give removal credits prior to the initial discharge of the pollutant. Consistent removal for the first 18 months of discharge shall be based on data from treatability studies or demonstrated removal at other treatment facilities where the quality and quantity of influent are similar. Eighteen months after initial discharge of pollutants, consistent removal shall be demonstrated pursuant to the requirements of sub. (2). If the POTW cannot demonstrate consistent removal pursuant to the requirements of sub. (2), the authority to grant provisional removal credits shall be terminated by the department. All industrial users to whom the revised discharge limits

(e) If a POTW grants conditional removal credits and the POTW or the department subsequently makes a final determination, after appropriate notice, that the industrial user failed to comply with the conditions in par. (a), the conditional credit shall be terminated by the POTW or the department for the non-complying industrial user. The industrial user to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical pretreatment standard within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard, as may be specified by the department. The conditional credit may not be terminated where a violation of the provisions of this paragraph results from causes entirely outside of the control of the industrial user or the industrial user had demonstrated substantial compliance.

(f) The department may decide not to review an application for conditional removal credit authority, in which case the conditionally revised discharge limits shall become effective and remain in effect until reviewed by the department. This review shall be conducted in accordance with the procedures of s. NR 211.30 before any pretreatment program approval or any WPDES permit reissuance pursuant to the pretreatment program approval.

(5) POTW APPLICATION FOR AUTHORIZATION TO GIVE REMOVAL CREDITS. (a) Any POTW that wants to give removal credits or modify existing ones shall apply for authorization from the department. Such application may be submitted at any time and shall include the following information:

1. A list of pollutants for which removal credits are proposed;
2. The data required pursuant to sub. (2);
3. Proposed revised discharge limits for each affected subcategory of industrial users calculated in accordance with sub. (1)(c);
4. A certification that the POTW has an approved local pretreatment program or qualifies for the exceptions to this requirement found in subs. (4) and (7);
5. A specific description of the POTW's current methods of using or disposing of its sludge and a certification that the granting of removal credits will not cause a violation of the sludge requirements identified in sub. (1)(b)4; and

the POTW's WPDES permit is reissued. If the department determines, on the basis of compliance monitoring reports or other information available to it, that the conditions specified in sub. (1)(b)3 to 5 are not being met, the department shall withdraw the POTW's authority to grant removal credits or modify those credits in accordance with the procedures specified in subd. 3.

2. If, during the term of the POTW's WPDES permit, the department determines that the POTW's consistent removal rate is consistently and substantially lower than the removal credit specified in the POTW's WPDES permit, the department shall either withdraw the POTW's authority to grant removal credits or modify those credits in accordance with the procedures specified in subd. 3.

3. If the department tentatively determines, under subd. 1 or 2, to withdraw a POTW's authority to grant removal credits or modification of those credits, the department shall, in accordance with the procedures specified in s. NR 211.30, issue a public notice, provide a public comment period of at least 30 days and provide an opportunity for interested persons to request a public hearing. The mailing list for the public notice shall include, at a minimum, the POTW and industrial users to whom revised discharge limits have been applied. If the department finally determines to withdraw the POTW's authority to grant removal credits or to modify those removal credits the POTW is authorized to grant, it shall notify the POTW, all industrial users to whom revised limits have been applied and each person who has requested individual notice of its decision and the basis for that decision. Notice shall also be published in the same newspaper that published the notice of the tentative determination. Following such notice and modification or withdrawal, all industrial users to whom revised discharge limits have been applied shall be subject to the modified discharge limits or the discharge limits prescribed in the applicable categorical pretreatment standard. The industrial users shall comply with such limits within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard, as may be specified by the department.

(7) Where the department has not required the POTW to develop a pretreatment program, the POTW may not be required to develop a pretreatment program as a precondition to obtaining authorization to give removal credits. The POTW shall, however, be required to comply with the other conditions of sub. (1)(b).

SECTION 10. NR 211.25(3)(a) is amended to read:

NR 211.25(3)(a) Analysis of monitoring samples taken by any POTW operating a pretreatment program shall be performed in accordance with ch. NR 219. Laboratory test results for radiological samples submitted by the POTW to the department shall be performed by a laboratory approved by the department of health and social services. Other laboratory test results submitted by the POTW to the department shall be performed by a laboratory certified or registered under ch. NR 149. The following tests are excluded from this requirement:

1. Temperature,
2. Turbidity,
3. Bacteria tests in wastewater effluent,
4. pH,
5. Chlorine residual,
6. Specific conductance,
7. Flow measurements.

Note: The requirement in this section to submit data from a certified or registered laboratory is effective on December 28, 1986.

SECTION 11. NR 211.30 is amended to read:

NR 211.30 PRETREATMENT PROGRAM APPROVAL AND REMOVAL CREDIT AUTHORIZATION. (1) Upon receipt of a request from a POTW for pretreatment program approval or removal credit authorization, the department shall perform an initial review to determine the completeness of the submittal. If the submittal is not complete, the department shall notify the POTW of the deficiencies and shall suspend review until the submittal is complete.

(2) Within 30 days after making the initial determination that the POTW submittal meets the requirements of ss. NR 211.22 through 211.26 for pretreatment program approval, and s. NR 211.13 for removal credit authorization, the department shall publish a public notice of receipt of the request for approval or

The rules contained herein shall take effect as provided in s. 227.22(1) (Intro.), Stats.

Dated at Madison, Wisconsin

July 11, 1986

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By

Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)
7025H



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

July 14, 1986

IN REPLY REFER TO: 1020

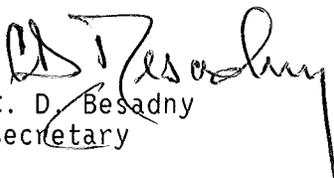
Mr. Orlan L. Prestegard
Revisor of Statutes
Suite 904
30 W. Mifflin Street

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. WW-44-85. These rules were reviewed by the Assembly Committee on Environmental Resources and the Senate Committee on Energy and Environmental Resources pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,


C. D. Besadny
Secretary

Enc.
8301K