



CR 91-45

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) SS

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-64-89 was duly approved and adopted by this Department on October 24, 1991. 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 here-
unto set my hand and affixed the
official seal of the Department at
the Natural Resources Building in
the City of Madison, this 7th
day of January, 1992.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

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ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
REPEALING, RENUMBERING, AMENDING,
RECREATING, AND CREATING RULES

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.....
IN THE MATTER of repealing s. NR 211.10(1)(a) and .
(b), and Note preceding 211.13; renumbering s. .
NR 211.22(8) to (10); renumbering and amending .
s. NR 211.22(9); amending ss. NR 211.03(8) and .
(10), 211.10(2)(a), 211.11(1), 211.12 (title) and .
(1), 211.13(2)(a), (5)(a)5 and 6, 211.15(1) .
(intro), 211.15(1)(e)1 and 4, (3), (4) and (6), .
211.21, 211.22(intro) and (3), 211.25(3)(d), .
211.30(1) and (2), 211.31(1)(g), and 211.33(1); .
repealing and recreating ss. NR 211.03(9), .
211.11(2) and (3), 211.12(2) and (4), .
211.13(2)(d)2 to 4 and (6)(d)3, 211.15(1)(e)2, (5) .
and (7), 211.22(7), 211.23(1), and 211.33(3); and .
creating ss. NR 211.03(1m), (2e), 2(s), (9m), (19m) .
and (20m), 211.10(2)(f), (g), (h) and (4), .
211.11(4), 211.12(5) and (6), 211.13(1)(b)6, .
(2)(e), (5)(a)7, and (6)(d)4 to 6, 211.15(9) and .
(10), 211.16, 211.17, 211.18, 211.19, 211.22(8), .
211.235, 211.25(4), 211.27, and 211.30(6) and (7) .
Wisconsin Administrative Code, pertaining to .
general pretreatment requirements .
.....

WW-64-89

Analysis Prepared By The Department Of Natural Resources

Statutory authority: ss. 147.01, 147.035, 147.07, and 227.11(2)(a), Stats.

Statutes interpreted: ss. 147.01, 147.035, 147.07, and 147.08 Stats.

The proposed revisions to ch. NR 211, Wis. Adm Code, are intended to meet the requirements of s. 147.035(2), Stats. The revisions are intended to do the following:

1. Make revisions to state rules in order to comply with corresponding federal rules.
2. Create provisions applicable to centralized treatment of industrial process wastewater. The proposed rules set forth monitoring and reporting requirements, clarify how the categorical pretreatment standards will apply to these facilities and capture existing federal and state policy concerning centralized waste treatment in ch. NR 211.

3. Add the equivalency requirement in s. 147.07(2)(b), Stats., to the section of ch. NR 211 concerning removal credits. This provision allows for the granting of "removal credits" for industrial pollutants removed by a publicly owned treatment works, but only if the combination of industrial and municipal treatment is equivalent to the removal of pollutants that would have been required if the industry had directly discharged to a surface water.

4. Add language to ch. NR 211 allowing the department to require installation of sampling manholes or other monitoring devices where necessary to provide for representative industrial and department sampling. This provision follows the mandate of s. 147.08(1)(d), Stats., that industrial dischargers sample their wastewater "at such locations and in such manner as the department shall by rule prescribe".

SECTION 1. NR 211.03(1m), (2e), and (2s) are created to read:

NR 211.03(1m) "Bypass" means the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

(2e) "Centralized waste treater" means an industrial user that treats wastes generated by activities located at a site other than where treatment occurs and introduces the wastes into a POTW. This definition does not include an industrial user whose generating facility and treatment facility are owned by the same entity, and who do not accept wastes generated by entities other than the industrial user.

(2s) "Commencement of construction" means the beginning of any of the following activities as part of a continuous on-site construction program:

(a) The placement, assembly or installation of facilities or equipment;

(b) Significant site preparation work, such as clearing, excavation or the removal of existing buildings, structures or facilities if their removal is necessary for the placement, assembly or installation of new source facilities or equipment; or

(c) The making of binding contractual obligations for the purchase of facilities or equipment which are intended to be used in the new source's operation. Options to purchase or contracts which may be terminated without a substantial loss and contracts for feasibility, engineering or design studies do not constitute a commencement of construction.

SECTION 2. NR 211.03(8) is amended to read:

NR 211.03(8) "Interference" means the inhibition or disruption of a POTW's sewer system, treatment processes or operations by an indirect discharge which, alone or in conjunction with the discharge or discharges from

other sources, causes a violation or ~~significantly contributes to~~ increases the magnitude or duration of a violation or ~~to an increase in the magnitude or duration of a violation~~ of any requirement of ~~its~~ the POTW's WPDES permit, including the impairment of the use or disposal of POTW sludge under chs. 144 and 147, Stats.

SECTION 3. NR 211.03(9) is repealed and recreated to read:

NR 211.03(9) "New source" means any building, structure, facility or installation:

- (a) That discharges or may discharge pollutants;
- (b) For which the commencement of construction occurred after the publication in the federal register of proposed pretreatment standards that will be applicable if promulgated according to s. 307(c) of the federal clean water act, 33 U.S.C. 1251 et seq.; and
- (c) That is one of the following:
 - 1. Constructed at a site at which no other source is located;
 - 2. A total replacement of the process or production equipment that causes the discharge of pollutants at an existing source; or
 - 3. Substantially independent from an existing source at the same site.

Whether or not a source is substantially independent shall be determined based on, among other factors, the extent to which the new facility is engaged in the same general type of activity as the existing source, and the extent to which the new facility's production and wastewater generation are integrated with the existing source.

SECTION 4. NR 211.03(9m) is created to read:

NR 211.03(9m) "Overflow" means any diversion of flow from a POTW before the POTW treatment plant.

SECTION 5. NR 211.03(10) is amended to read:

NR 211.03(10) ~~"Pass through"~~ "Pass through" means the discharge of pollutants through the POTW to ~~the POTW receiving waters of the state~~ in quantities or concentrations which ~~cause, alone or in conjunction with the discharge or discharges from other sources, causes a violation or significantly contribute to~~ increases the magnitude or duration of a violation of any requirement of the POTW's WPDES permit, including an increase in the magnitude or duration of a violation.

SECTION 6. NR 211.03(19m) and (20m) are created to read:

NR 211.03(19m) "Significant industrial user" means:

- (a) Any industrial user subject to the categorical pretreatment standards in chs. NR 221 to 297;
- (b) Any industrial user which discharges an average of 25,000 gallons per day or more of wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewater;
- (c) Any industrial user that discharges to the POTW a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;
- (d) Any centralized waste treater; or
- (e) Any other industrial user designated as a significant industrial user by the control authority.

(20m) "Slug" means any nonroutine, episodic discharge, such as a discharge resulting from a spill or a noncustomary batch discharge.

SECTION 7. 211.10(1)(a) and (b) are repealed.

SECTION 8. 211.10(2)(a) is amended to read:

NR 211.10(2)(a) Pollutants which create or contribute to a fire or explosion hazard in the POTW, including but not limited to wastestreams with a closed cup flashpoint of less than 140° F or 60° C using the test methods in s. NR 605.08(2).

SECTION 9. NR 211.10(2)(f), (g) and (h) and (4) are created to read:

NR 211.10(2)(f) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of gases, vapors or fumes within the POTW in a quantity which may cause acute worker health or safety problems.

(h) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

(4) Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user may increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The control authority may impose mass limitations on an industrial user to account for dilution or in any other situation for which the control authority finds mass limitations appropriate.

SECTION 10. NR 211.11(1) is amended to read:

NR 211.11(1) Categorical pretreatment standards for specific point source categories are set forth in chs. NR 221 ~~through~~ to 297. Limits in categorical pretreatment standards shall apply to the effluent from the process regulated by the standard, unless otherwise specified in the standard. Limits in categorical pretreatment standards shall apply to wastestreams which are transported off-site for disposal as well as those discharged on-site. Industrial users shall comply with applicable categorical pretreatment standards, in addition to complying with the general prohibitions established in s. NR 211.10, unless specifically noted otherwise in the categorical pretreatment standard.

SECTION 11. NR 211.11(2) and (3) are repealed and recreated to read:

NR 211.11(2) COMPLIANCE DATES. (a) All industrial users, except new sources, shall comply with the applicable categorical pretreatment standards within 3 years from the effective date of the standard or within a shorter time period if specified in the applicable standard. A direct discharger which becomes an industrial user after promulgation of an applicable categorical pretreatment standard may not be considered a new source unless it falls within the definition of a "new source" contained in s. NR 211.03(9).

(b) New sources shall install, have in operating condition and start up all of the pollution control equipment required to meet the applicable pretreatment standards before beginning discharge. Within the shortest feasible time, not to exceed 90 days, new sources shall meet all applicable pretreatment standards.

(3) CONVERSION FROM PRODUCTION BASED STANDARDS TO MASS OR CONCENTRATION STANDARDS. (a) 1. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating limits for particular individual users.

2. Equivalent mass per day limits shall be calculated by multiplying the limits in the standard by the industrial user's average rate of production. This average rate of production shall be based upon a reasonable measure of the industrial user's actual long-term daily production, such as average daily production, during a representative year. For new sources, actual production shall be estimated using projected production.

3. Equivalent concentration limits shall be calculated by dividing the mass limits derived according to subd. 2 by the average daily flow rate of the industrial user's process wastewater. This average daily flow rate shall be based upon a reasonable measure of the industrial user's actual long-term average flow rate, such as the average daily flow rate during the same representative year used in subd. 2.

4. When pretreatment standards specify both daily and long-term limits, the same production or flow figures shall be used in calculating daily and long-term equivalent limits.

(b) Equivalent limits calculated according to par. (a) shall be considered pretreatment standards for the purposes of this chapter. Industrial users shall comply with the equivalent limitations instead of the promulgated categorical standards from which the equivalent limits were derived.

(c) Any industrial user operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the control authority within 2 business days after the industrial user has reason to know that the production level will significantly change within the next calendar month. Any industrial user which does not notify the control authority of such anticipated change shall meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long-term average production rate.

SECTION 12. NR 211.11(4) is created to read:

NR 211.11(4) COMPENSATION FOR POLLUTANTS IN INTAKE WATER.

(a) Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in an industrial user's intake water if the applicable categorical pretreatment standards specifically provide that they may be applied on a net basis and if the industrial user demonstrates to the control authority that:

1. The control system used or proposed to meet the categorical pretreatment standards would meet the categorical pretreatment standards in the absence of pollutants in the intake water if the control system is properly installed and operated;

2. The constituents of a generic measure, such as BOD, TSS or oil and grease, in the industrial user's effluent are substantially similar to the constituents of the generic measure in the intake water. The control authority may waive this requirement if appropriate additional limits are placed on process water pollutants either at the point of discharge or elsewhere; and

3. The intake water is drawn from the same water body as the water body to which the POTW discharges. The control authority may waive this requirement if it finds that no environmental degradation will result.

(b) The control authority shall grant credits only to the extent necessary to meet the applicable categorical pretreatment standards, up to a maximum value equal to the influent value. The control authority may require additional monitoring to determine eligibility for credits and compliance with the adjusted standards.

SECTION 13. NR 211.12(title) and (1) are amended to read:

NR 211.12 (title) COMBINED WASTESTREAM FORMULA WASTESTREAMS. (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 standard and an alternative ~~consecutive sampling day~~ monthly average value using the ~~long term~~ monthly average values specified in the appropriate categorical pretreatment standards. The industrial user shall comply with the alternative daily maximum and ~~long term~~ monthly average limits approved by the control authority until the control authority modifies the limits or approves an industrial user modification request. Modification is authorized whenever there is a material or significant change in the values

used in the calculation to fix alternative limits for the regulated pollutant. An industrial user shall immediately report any such material or significant change to the control authority. New alternative limits shall be calculated within 30 days.

SECTION 14. NR 211.12(2) and (4) are repealed and recreated to read:

NR 211.12(2) ALTERNATIVE LIMIT CALCULATION. Alternative limits shall be derived according to the following formulas:

(a) Alternative concentration limit:

$$C_T = \frac{\sum_{i=1}^N C_i F_i}{\sum_{i=1}^N F_i} \frac{F_T - F_D}{F_T}$$

(b) Alternative mass limit:

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

(c) Where:

N = The total number of regulated streams

C_T = The alternative concentration limit for the combined wastestream

C_i = The categorical pretreatment standard concentration limit for the pollutant in the regulated stream i

M_T = The alternative mass limit for the combined wastestream

M_i = The categorical pretreatment standard mass limit for a pollutant in the regulated stream i, which is the categorical pretreatment standard multiplied by the appropriate measure of production

F_i = The average daily flow over at least 30 days of stream i to the extent that it is regulated for the pollutant

F_T = The average daily flow over at least 30 days through the combined treatment facility, including F_i , F_D , and unregulated streams

F_D = The average daily flow over at least 30 days from:

1. Boiler blowdown, non-contact cooling, stormwater and demineralizer backwash streams. However, if these streams contain a significant amount of a pollutant and if the combination of these streams with an industrial user's regulated process wastestream prior to treatment will result in a substantial reduction of that pollutant, the control authority, upon the industrial user's application, shall determine whether these 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;

2. Sanitary wastestreams where the streams are not regulated by a categorical pretreatment standard; or

3. Any process wastestreams which were or could have been entirely exempted from categorical pretreatment standards for one or more of the following reasons:

- a. The pollutants regulated by the categorical pretreatment standards used in the formula are not detectable in the effluent from the industrial user;

- b. The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects;

- c. The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the administrator of EPA; or

d. The wastestream contains only pollutants that are compatible with the POTW.

(4) SELF-MONITORING. Self-monitoring to insure compliance with the alternative categorical limit shall be conducted in accordance with s. NR 211.15(4).

SECTION 15. NR 211.12(5) and (6) are created to read:

NR 211.12(5) CHOICE OF MONITORING LOCATION. (a) If a treated regulated process wastestream is combined with wastewaters other than those generated by the regulated process, the industrial user may monitor either the segregated process wastestream or the combined wastestream for purposes of determining compliance with the applicable pretreatment standards. If the industrial user chooses to monitor the segregated process wastestream, the industrial user shall apply the applicable categorical pretreatment standard. If the industrial user chooses to monitor the combined wastestream, the industrial user shall apply an alternative discharge limit calculated according to the combined wastestream formula in sub. (2).

(b) An industrial user may change monitoring points only after receiving approval from the control authority. The control authority shall ensure that any change in an industrial user's monitoring point will not allow the industrial user to substitute dilution for adequate treatment.

(6) COMBINED WASTESTREAMS AT CENTRALIZED WASTE TREATERS. (a) When wastestreams regulated by different categorical pretreatment standards are combined prior to treatment, alternative discharge limits shall be derived according to this section, except as provided in pars. (b) and (c).

(b) 1. The centralized waste treater shall comply with alternative discharge limits determined by the control authority's best professional judgment when:

a. The control authority determines that the calculation of alternative discharge limits according to this section is not practicable; and

b. The department has approved the control authority's determination and alternative limits which have been developed according to subd. 2.

2. Alternative limits developed according to this subsection shall assure treatment equivalent to that prescribed in the categorical standards which apply to the contributing wastestreams. Alternative limits shall be based on the most stringent categorical limit for each pollutant or the best available treatment technologies for the contributing wastestreams.

(c) When necessary to ensure that neither dilution nor mixing is used instead of treatment to achieve compliance with the applicable limitations, the control authority shall require segregated treatment of wastestreams or other effective measures.

SECTION 16. The note preceding s. NR 211.13 is repealed.

SECTION 17. NR 211.13(1)(b)6 is created to read:

NR 211.13(1)(b)6. The granting of removal credits will not result in a discharge of pollutants to waters of the state greater than the discharge that would be allowed if the pollutants were discharged other than through a POTW.

SECTION 18. NR 211.13(2)(a) is amended to read:

NR 211.13(2)(a) At least 12 representative samples of influent and effluent shall be taken at approximately equal intervals throughout one full year. Sampling shall be evenly distributed over the days of the week to include non-work days as well as work days. 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.

SECTION 19. NR 211.13(2)(d)2, 3 and 4 are repealed and recreated to read:

NR 211.13(2)(d)2. For each sample, removal shall be calculated by dividing the difference between the concentrations of a pollutant in the POTW's influent and effluent by the influent concentration. If the number of samples with measurable concentrations is greater than 12, the consistent removal is the average of the lowest half of the removals. If the number of samples with measurable concentrations is between 8 and 12, the consistent removal is the average of the lowest 6 removals. If less than 8 samples have measurable concentrations, the department may approve a means for demonstrating consistent removal on a case-by-case basis.

3. If a substance is measurable in the influent but not in the effluent, the effluent concentration may be assumed to be the limit of measurement, and those data may be used by the POTW, subject to approval by the department.

4. When calculating consistent removal, the POTW shall use all of the data obtained for measuring removal, except for measurements in which a substance is not measurable in the influent.

SECTION 20. NR 211.13(2)(e) is created to read:

NR 211.13(2)(e) If an overflow of untreated water to receiving waters occurs at least once per year, a POTW may claim consistent removal only by complying with either subd. 1 or 2, except as provided in subd. 3.

1. The POTW shows, to the department's satisfaction, that:

a. All industrial users to which the POTW proposes to apply removal credits have demonstrated the ability to contain or reduce discharges or increase pretreatment to compensate for the removal not being provided by the POTW during circumstances in which overflow can be reasonably expected to occur;

b. The POTW has identified circumstances in which an overflow event can be reasonably expected to occur and has a notification plan or other viable plan to ensure that industrial users will learn of an impending overflow event in sufficient time to contain or reduce discharges or increase pretreatment to prevent untreated overflow from occurring;

c. The POTW will monitor and verify the data required in subpar. d to ensure that industrial users are containing or reducing discharges or increasing pretreatment during overflow events; and

d. All industrial users to which the POTW proposes to apply removal credits have demonstrated the ability and commitment to collect and make available, upon request, to the POTW, department or EPA, daily flow reports or other data sufficient to demonstrate that all discharges from regulated

processes containing the pollutant for which the removal credit is requested were contained, reduced or subject to increased pretreatment during all circumstances in which an overflow was reasonably expected to occur.

2. a. The consistent removal calculated according to par. (d) is reduced according to the following equation:

$$r_c = r_m \frac{8760 - Z}{8760}$$

Where:

r_c = corrected removal

r_m = POTW's consistent removal for that pollutant as established by sub. (1)

Z = hours per year that overflow occurred between the industrial user and the POTW treatment plant, as shown in the POTW's current WPDES permit application or by verifiable data specifically related to overflows between a particular industrial user and the POTW treatment plant; and

b. The POTW's WPDES permit includes a schedule for timely implementation of measures to ameliorate conditions that result in the overflow. When considering what is timely implementation, the department shall consider the availability of funds, the cost of control measures and the seriousness of water quality problems related to the overflow.

3. This paragraph does not apply if the industrial user can show that overflow does not occur between the industrial user and the POTW treatment plant.

SECTION 21. NR 211.13(5)(a)5 and 6 are amended to read:

NR 211.13(5)(a)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

6. A certification that the granting of removal credits will not cause a violation of the POTW's WPDES permit limits and conditions as required in sub. (1)(b)5-; and

SECTION 22. NR 211.13(5)(a)7 is created to read:

NR 211.13(5)(a)7. A demonstration that the granting of removal credits will be consistent with sub. (1)(b)6 for each industrial user for whom removal credits are proposed.

SECTION 23. NR 211.13(6)(d)3 is repealed and recreated to read:

NR 211.13(6)(d)3. If the department tentatively determines that a POTW's authority to grant removal credits should be withdrawn or modified, the department shall notify the POTW of its determination and give the POTW a reasonable time to take corrective action. The period for corrective action may exceed 60 days only if the POTW or industrial users demonstrate that a longer period is reasonably necessary to undertake appropriate corrective action.

SECTION 24. NR 211.13(6)(d)4, 5 and 6 are created to read:

NR 211.13(6)(d)4. If the department finds the corrective action insufficient, 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 the revised discharge limits have been applied.

5. If the department finally determines to withdraw or modify the POTW's authority to grant removal credits, the department shall provide notice of the determination to the POTW, all industrial users to whom the revised limits have been applied and each person who has requested individual notice. This notice shall include the basis for the determination. Notice of the final determination shall also be published in the same newspaper that published the notice of the tentative determination.

6. Following the notice required by subd. 5, all industrial users to whom revised discharge limits have been applied shall be subject to the modified discharge limits or the limits prescribed in the applicable categorical pretreatment standard. Industrial users shall comply with these 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.

SECTION 25. NR 211.15(1)(intro) and (1)(e)1 are amended to read:

NR 211.15(1)(intro) Within 180 days after the effective date of a categorical pretreatment standard as published in the federal register, or 180 days after the final decision in a request for category determination under s. NR 211.33, whichever is later, industrial users subject to that standard which are not new sources and which are currently discharging or scheduled to discharge into a POTW shall submit to the control authority a report containing the information listed in pars. (a) ~~through~~ to (g), except when reports containing this information have already been submitted to the control authority for other purposes. ~~New~~ At least 90 days before the commencement of discharge, new sources and sources that become industrial users subsequent to

the promulgation of an applicable categorical pretreatment standard shall submit a report to the control authority which at a minimum contains the information listed in pars. (a) through to (e). New sources shall estimate the information required by pars. (d) and (e). New sources shall also include in this report information regarding the method of pretreatment that will be used to meet the applicable pretreatment standards. The control authority may require the industrial user to submit any additional information which the control authority finds is necessary to determine the industrial user's ability to meet the applicable pretreatment standards.

(1)(e)1. Sampling and analysis shall be performed to identify the concentration ~~(or mass where required by the applicable categorical pretreatment standard or by the control authority)~~ of regulated pollutants in the discharge from each regulated process, according to the requirements of the applicable categorical pretreatment standard and the control authority. Both daily maximum and average values shall be reported. Samples shall be representative of daily operations ~~and shall be flow proportional composites.~~ ~~Where composite sampling is not feasible, grab sampling may be used.~~ A minimum of 4 grab samples per day shall be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organics. All other samples shall be 24-hour flow proportional composites, except when the industrial user demonstrates to the control authority's satisfaction that flow proportional sampling is infeasible. When flow proportional sampling is infeasible, the industrial user may use time proportional composite sampling or at least 4 grab samples if the industrial user has shown to the control authority's satisfaction that these methods provide representative samples of the effluent being discharged.

SECTION 26. NR 211.15(1)(e)2 is repealed and recreated to read:

NR 211.15(1)(e)2. The industrial user shall collect and analyze a minimum of one representative sample to compile the data necessary for this subsection. Sampling shall be performed during full facility production when substances subject to regulation, including those in batch or periodic discharges, are likely to be present in maximum concentrations or quantities for the reporting period. The control authority may require more frequent monitoring when necessary to assess compliance with the applicable pretreatment standards and requirements. If an industrial user samples any pollutant more frequently than required by the control authority and analyzes these samples according to sub. (8), the results of this monitoring shall be included in the report.

SECTION 27. NR 211.15(1)(e)4, (3) and (4) are amended to read:

NR 211.15(1)(e)4 Representative historical data may be used in the initial baseline report with the approval of the control authority.

(3) A report shall be submitted to the control authority within 90 days after the date for final compliance with applicable categorical pretreatment standards or, for new sources and sources that become industrial users subsequent to the compliance date of an applicable categorical pretreatment standard, the date on which wastewater is first discharged to the POTW. The report shall ~~indicate the nature and concentration of pollutants in the industrial user's discharge that are regulated by the applicable categorical pretreatment standards, and the average and maximum daily flow for processes regulated by the applicable categorical pretreatment standards. The report shall state whether or not the applicable categorical pretreatment standards~~

~~are being met on a consistent basis. The report shall also include a statement of what steps must be taken to achieve compliance with the categorical pretreatment standards if these standards are not being met. The statement shall be signed by an authorized representative of the industrial user and certified by a qualified professional~~ include the information required by sub. (1)(d) to (f). For industrial users subject to equivalent mass or concentration limits established by the control authority according to s. NR 211.11(3), this report shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the industrial user's actual production or other measure of operation during the appropriate sampling period.

(4) After the compliance date for ~~a~~ an applicable categorical pretreatment standard, industrial users shall submit semi-annual reports to the control authority. New sources and sources that become industrial users subsequent to the compliance date of an applicable categorical pretreatment standard shall submit semi-annual reports to the control authority after commencement of discharge to the POTW. The report shall ~~indicate the nature and concentration of pollutants in the effluent that are regulated by the categorical pretreatment standard and, where requested by the control authority, production data and the mass of pollutants in the discharge which are limited by the categorical pretreatment standards.~~ This report shall also include a record of measured or estimated average and maximum daily flows for the reporting period. Flows shall be reported in gallons per day include the information required by sub. (1)(d) to (e) except that alternative sampling

techniques may be used if they result in samples that are representative of the user's discharge and are approved by the control authority. For industrial users subject to equivalent mass or concentration limits established by the control authority according to s. NR 211.11(3), this report shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the industrial user's actual production or other measure of operation during the reporting period. For all wastes subject to categorical pretreatment standards that have been shipped off-site for disposal, these reports shall include the category, manufacturing process, volume and destination of such wastes. These reports shall be submitted during June and December unless otherwise specified by the control authority. Industrial users shall submit reports more frequently if required to do so by the control authority, or the department, or the applicable categorical pretreatment standards.

SECTION 28. NR 211.15(5) is repealed and recreated to read:

NR 211.15(5) Significant industrial users which are not subject to categorical pretreatment standards and which discharge to a POTW with a pretreatment program shall submit reports to the control authority at least twice per year. At a minimum, these reports shall describe the flow rate and concentration of pollutants in wastewater discharges, and shall be based on sampling and analysis performed in the period covered by the report. Other industrial users not subject to categorical pretreatment standards shall submit reports according to the requirements of the control authority.

SECTION 29. NR 211.15(6) is amended to read:

NR 211.15(6) The industrial user shall notify the POTW in advance of any substantial change in the volume or character of the pollutants in the discharge, including changes in listed or characteristic hazardous wastes for which the industrial user has submitted initial notification according to s. NR 211.17. Industrial users shall immediately notify the POTW of any discharge that could cause problems at the POTW, such as any slug loading in violation of s. NR 211.10(2).

SECTION 30. NR 211.15(7) is repealed and recreated to read:

NR 211.15(7) If sampling and analysis performed by an industrial user indicates a violation, the industrial user shall notify the control authority within 24 hours of becoming aware of the violation. The industrial user shall repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation, unless the control authority regularly performs sampling at the industrial user at least once per month or performed sampling at the industrial user between the time of the industrial user's initial sampling and the time when the industrial user received the results of the initial sampling.

SECTION 31. NR 211.15(9) and (10) are created to read:

NR 211.15(9)(a) Sampling and analysis may be performed by the control authority instead of the industrial user. When the control authority collects all of the information required for a report, the control authority may not require the industrial user to submit the report.

(b) The control authority may require the installation of sampling manholes or other monitoring devices necessary for the collection of representative samples by either the industrial user or the control authority.

(10)(a) The reports containing analytical data required by this section shall include the following certification signed by a person specified by par.

(b), (c) or (d):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(b) If the industrial user is a corporation, the certification in par.

(a) shall be signed by:

1. A president, secretary, treasurer, vice-president in charge of a principal business function or any other person who performs similar policy or decision making functions for the corporation;

2. The manager of one or more facilities having a total of at least 250 employees or having gross annual sales or expenditures exceeding \$25 million in second quarter 1980 dollars, but only if authority to sign documents has been delegated to the manager according to the corporation's procedures; or

3. A representative of a person described in subd. 1 or 2 if the representative has been authorized according to par. (e).

(c) If the industrial user is a partnership, the certification in par.

(a) shall be signed by either a general partner or a representative authorized according to par. (e).

(d) If the industrial user is a sole proprietorship, the certification in par. (a) shall be signed by either the proprietor or a representative authorized according to par. (e).

(e) Authority to sign the certification in par. (a) may be delegated if:

1. The person to whom authority is delegated is an individual or occupies a position with responsibility for:

a. The overall operation of the facility from which the discharge occurs, such as a plant manager; or

b. The overall environmental matters for the company, such as a corporate environmental officer; and

2. A written authorization is submitted to the control authority. If circumstances change so that an authorization is no longer accurate, the industrial user shall submit a new authorization before or along with the submission of any report signed by a new representative.

SECTION 32. NR 211.16, 211.17, 211.18 and 211.19 are created to read:

NR 211.16 ADDITIONAL MONITORING AND REPORTING REQUIREMENTS FOR

CENTRALIZED WASTE TREATERS. (1) INITIAL REPORT. At least 180 days before the commencement of discharge, a new centralized waste treater shall provide the control authority with the following information:

(a) Name, location, mailing address and the names of the owner and operator;

(b) A description of the treatment equipment and processes, a schematic diagram and a discussion of performance capabilities;

(c) The types of waste the centralized waste treater intends to treat, identified by industrial category and manufacturing process, and estimated volumes for each type of waste;

(d) A description of the waste acceptance procedures developed according to sub. (3) for incoming waste;

(e) A description of effluent monitoring plans developed according to sub. (4); and

(f) Any other information requested by the control authority.

(2) NEW WASTESTREAM REPORT. At least 60 days before accepting wastes from an industrial category or manufacturing process not included in the report required by sub. (1), a centralized waste treater shall submit to the control authority the following information for the new type of waste:

(a) A description of the waste, including industrial category and manufacturing process;

(b) Estimates for the volume of the waste; and

(c) The equipment and processes that will be used for treatment.

(3) WASTE ACCEPTANCE PROCEDURES. Each centralized waste treater shall implement waste acceptance procedures sufficient to ensure that wastes accepted for treatment are within the centralized waste treater's treatment capabilities and have no characteristics that could reasonably be expected to prevent compliance with the applicable pretreatment standards and requirements. These acceptance procedures shall include sampling and analysis, treatability studies and any other procedures necessary to identify the source and character of the waste.

(4) EFFLUENT MONITORING. Sampling and analysis of effluent shall be sufficient to assess consistent compliance with the applicable pretreatment

standards and requirements. Samples shall be analyzed according to s. NR 211.15(8).

(5) SEMIANNUAL REPORT. Every June and December or as otherwise specified by the control authority, each centralized waste treater shall provide to the control authority the following information for all wastes treated since the previous report:

- (a) The name and address of each waste's generator;
- (b) The volume and date of arrival of each wastewater and the name and address of the transporter if received by truck or rail;
- (c) The applicable pretreatment standards, including the generator's production data if production based standards apply;
- (d) Effluent volume and effluent sampling and analysis results; and
- (e) Any other information requested by the control authority.

NR 211.17 HAZARDOUS WASTE DISCHARGE REPORT. (1) An industrial user shall notify, in writing, the POTW, the EPA Region V waste management division director and the department's bureau of solid waste management of the discharge to a POTW of:

- (a) More than 15 kilograms per calendar month of any substance that would be a hazardous waste according to ch. NR 605 if otherwise disposed; or
 - (b) Any amount of a substance that would be an acute hazardous waste according to s. NR 605.09(1)(d) or (3)(b), Table IV, if otherwise disposed.
- (2) The notification required by sub. (1) shall include:
- (a) The name of the hazardous waste;
 - (b) The hazardous waste number;
 - (c) Whether the discharge is continuous, batch or other; and

(d) A certification that the industrial user has a program in place to reduce to the extent economically practicable the volume and toxicity of the generated hazardous wastes.

(3) If an industrial user discharges to a POTW more than 100 kilograms of hazardous wastes per month, the report required by sub. (1) shall include the following additional information to the extent it is known and available:

(a) The identity of the hazardous constituents in the listed wastes;

(b) The mass and concentration of the hazardous constituents in the wastestream; and

(c) The mass of the hazardous constituents expected to be discharged during the next 12 months.

(4) The notification required by sub. (1) shall be made by the date required by the control authority.

(5) Industrial users who commence discharging a hazardous waste after the date established under sub. (4) shall provide the notification required by sub. (1) within 180 days of commencement of discharge.

(6) Any notification under this section need be submitted only once for each hazardous waste discharged except for notifications of changed discharges under s. NR 211.15(6).

(7) This section does not apply to wastestreams already reported under the self-monitoring requirements of s. NR 211.15.

(8) If ch. NR 605 is amended to identify additional characteristics of hazardous wastes or list any additional substance as a hazardous waste, any industrial user discharging the newly designated hazardous waste shall notify, in writing, the POTW, the EPA Region V waste management division director and

the department's bureau of solid waste management of the discharge of the substance within 90 days of the effective date of the new regulations.

NR 211.18 DEFENSES. (1) In any action brought for violation of s. NR 211.10(1) or (2)(c), (d), (e), (f) or (g), an industrial user shall have an affirmative defense if the industrial user demonstrates that:

(a) The industrial user did not know or have reason to know that its discharge, alone or in conjunction with the discharge or discharges from other sources, would cause pass through or interference; and

(b) 1. A local limit designed to prevent pass through or interference was developed in accordance with s. NR 211.10(3)(a) for each pollutant in the user's discharge which caused pass through or interference and the industrial user was in compliance with each local limit prior to and during the pass through or interference; or

2. If a local limit designed to prevent pass through or interference has not been developed in accordance with s. NR 211.10(3)(a) for the pollutant or pollutants which caused the pass through or interference, the industrial user's discharge immediately prior to and during the pass through or interference did not substantially change in nature or constituents from the industrial user's prior discharge activity when the POTW was regularly in compliance with the POTW's WPDES permit requirements and, in case of interference, applicable requirements for sewage sludge use or disposal.

(2) In any action brought for noncompliance with categorical pretreatment standards, an industrial user shall have an affirmative defense if the industrial user demonstrates all of the requirements of pars. (a) to (d) by properly signed contemporaneous operating logs or other evidence.

(a) The noncompliance was exceptional, unintentional, temporary and beyond the reasonable control of the industrial user;

(b) The industrial user demonstrates that the noncompliance was not caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation;

(c) The industrial user identifies the causes of the noncompliance; and

(d) 1. The industrial user has provided the information listed in subpars. a to c to the control authority within 24 hours of becoming aware of the noncompliance.

a. A description of the discharge and the cause of noncompliance;

b. The exact date and time period of noncompliance or, if not yet corrected, the anticipated time noncompliance is expected to end;

c. The steps being taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.

2. If this information is provided orally, a written submission to the control authority shall be made within 5 days.

NR 211.19 LOSS OF TREATMENT CAPACITY AND BYPASS. (1) Industrial users shall control production or contain discharges to the extent necessary to maintain compliance with pretreatment standards and requirements upon the reduction, loss or failure of a treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies to, but is not limited to, the situation in which the primary source of power for the treatment facility is reduced, lost or fails.

(2) A bypass that does not result in a violation of any pretreatment standard or requirement is prohibited except where the bypass is necessary for essential maintenance.

(3) A bypass that results in a violation of any pretreatment standard or requirement is prohibited unless the conditions of pars. (a) to (c) are met:

(a) 1. Bypass is necessary to prevent loss of life;
2. Bypass is necessary to prevent personal injury; or
3. The industrial user reasonably expects the following to occur without a bypass:

a. Substantial physical damage to property;
b. Damage to treatment facilities that would cause them to become inoperable; or

c. Substantial and permanent loss of natural resources.

(b) No feasible alternatives to the bypass exist, such as use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(c) 1. If an industrial user knows in advance of the need for a bypass, it notifies the control authority at least 10 days before the bypass if possible or otherwise as soon as possible; or

2. An industrial user orally notifies the control authority of an unanticipated bypass within 24 hours from the time the industrial user becomes aware of the bypass and provides a written submission, within 5 days of the time the industrial user becomes aware of the bypass, containing:

- a. A description of the bypass and its cause;
- b. The duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the time it is expected to end; and
- c. A description of the steps taken or planned to prevent recurrence of the bypass.

SECTION 33. NR 211.21 is amended to read:

NR 211.21 COMPLIANCE DATES. ~~A POTW shall receive approval for a pretreatment program~~ POTWs shall establish pretreatment programs which meet the requirements of ss. NR 211.22 to 211.26 no later than 3 years after the reissuance or modification of ~~its~~ an existing WPDES permit, but in no case later than July 1, 1983. ~~In order to receive such approval the POTW must meet the requirements of ss. NR 211.22 through 211.26.~~ A POTW identified after July 1, 1983, as being required to develop a pretreatment program shall develop a pretreatment program which meets the requirements of ss. NR 211.22 to 211.26 and submit it as soon as possible, but not later than one year after written notification from the department that a pretreatment program is required.

SECTION 34. NR 211.22(intro) is amended to read:

NR 211.22 LEGAL AUTHORITY REQUIREMENTS.(intro) Where the department requires a POTW to develop a pretreatment program under this subchapter, the POTW shall operate under legal authority and include procedures, fully enforceable in federal or state courts, which at a minimum enables the POTW to perform the following functions+. These authorities and procedures shall be fully exercised and implemented at all times.

SECTION 35. NR 211.22(3) is amended to read:

NR 211.22 (3) Control through permit, ~~contract~~, order, or similar means the discharge to the POTW by each industrial user.

SECTION 36. NR 211.22(7) is repealed and recreated to read:

NR 211.22 (7) Obtain remedies, including injunctive relief, for any industrial user's:

(a) Noncompliance with any pretreatment standard or requirement;

(b) Failure to allow the POTW to enter and to carry out inspections and monitoring activities;

(c) Noncompliance with any rule, regulation or order issued by the POTW;

or

(d) Noncompliance with any reporting requirement imposed by the POTW or by this chapter.

SECTION 37. NR 211.22(8) to (10) are renumbered (9) to (11) and 211.22(10) as renumbered is amended to read:

NR 211.22(10) After notice to the industrial user and an opportunity to respond, halt or prevent any discharge to the POTW which endangers or may endanger the environment or which threatens to interfere with the operation of the POTW.

SECTION 38. NR 211.22(8) is created to read:

NR 211.22(8) Have authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 per day for each violation of a pretreatment standard or requirement.

SECTION 39. NR 211.23(1) is repealed and recreated to read:

NR 211.23(1) Where the department requires a POTW to develop a pretreatment program under this subchapter, the POTW shall develop and fully implement procedures to ensure compliance with the requirements of a pretreatment program. At a minimum, these procedures shall enable the POTW to:

(a) Identify and locate all possible industrial users who might be subject to the pretreatment program.

(b) Reclassify, upon the POTW's own initiative or in response to a petition from an industrial user, a significant industrial user not subject to categorical pretreatment standards as a nonsignificant industrial user after a finding that the industrial user has no potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(c) Identify the character and volume of pollutants contributed to the POTW by industrial users.

(d) Notify industrial users of applicable pretreatment standards and requirements including those relating to user charges and solid or hazardous waste disposal.

(e) Receive and analyze self-monitoring reports and other notices submitted by industrial users.

(f) Randomly sample and analyze the effluent from industrial users and conduct surveillance and inspection activities in order to identify, independently of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards.

(g) Develop an enforcement response plan that discusses how the POTW will investigate and respond to instances of industrial user noncompliance. At a minimum, the plan shall:

1. Describe how the POTW will investigate instances of noncompliance;
2. Describe the escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which the responses will take place; and
3. Identify by title the officials responsible for each type of response.

(h) Investigate instances of noncompliance by collecting and analyzing samples and other information with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions.

(i) Make the information obtained under pars. (a) to (h) available to the department or EPA upon request.

(j) Annually publish a list of the industrial users that were in significant noncompliance with the applicable pretreatment standards and requirements at any time during the previous 12 months. The list shall be published in the daily newspaper with the largest circulation in the municipality in which the POTW is located. An industrial user has been in significant noncompliance if:

1. Sixty-six percent or more of all the measurements of the industrial user's wastewater for any pollutant taken during a 6 month period exceeded by any magnitude the daily maximum limit or the average limit;
2. Thirty-three percent or more of all of the measurements of the industrial user's wastewater for any pollutant taken during a 6 month period equal or exceed the product of the daily maximum limit or the average limit

multiplied by either 1.4 for BOD, TSS, and fats-oil-grease; 1.2 for all other pollutants except pH; or exceed a pH limit by .4 standard pH units;

3. The control authority has reason to believe that the industrial user has caused, alone or in combination with other discharges, interference, pass through or endangerment of the health of POTW personnel or the general public because of a violation of a pretreatment standard or requirement;

4. The industrial user has discharged a pollutant that has caused imminent endangerment to human health, welfare or the environment or has otherwise resulted in the POTW's exercise of its emergency authority to halt or prevent a discharge;

5. The industrial user failed to meet, by 90 days or more, a milestone date contained in a compliance schedule within a local control mechanism or enforcement order for starting construction, completing construction or attaining compliance;

6. The industrial user has failed to provide within 30 days of a deadline a required report, such as a baseline monitoring report, 90 day compliance report, periodic self monitoring report or report on compliance with a compliance schedule;

7. The industrial user has failed to accurately report noncompliance; or

8. The control authority has determined that any other violation or group of violations by the industrial user has adversely affected the operation or implementation of the local pretreatment program.

SECTION 40. NR 211.235 is created to read:

NR 211.235 REGULATION OF SIGNIFICANT INDUSTRIAL USERS. A POTW with an approved pretreatment program shall:

(1) Control the discharge from each significant industrial user through individual control mechanisms. The control mechanism shall have a duration of no longer than 5 years. The control mechanism may not be transferred without prior notification to the POTW. The control mechanism shall contain or contain by reference the following:

- (a) Statement of duration;
- (b) Transferability requirements;
- (c) Effluent limits based on prohibited discharge standards, categorical pretreatment standards, local limits and state and local law;
- (d) Requirements for self monitoring, including sampling location, sampling frequency, sample types, record keeping and reporting;
- (e) Notification requirements for irregular discharges regulated by s. NR 211.15(7);
- (f) Any applicable compliance schedule; and
- (g) A description of the civil and criminal penalties for violation of pretreatment standards or requirements.

(2) Within 30 days after identifying an industrial user as a significant industrial user, notify the newly designated significant industrial user of its status and of all requirements applicable to it as a result of its status.

(3) Inspect and sample the effluent from each significant industrial user at least once per year.

(4) (a) At least once every 2 years, evaluate each significant industrial user's need for a slug control plan.

(b) If the POTW determines that a slug control plan is needed, require the industrial user to develop a plan with the following elements:

1. A description of discharge practices, including nonroutine batch discharges;
2. A description of stored chemicals;
3. Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition in s. NR 211.10, with procedures for a subsequent written notification within 5 days;
4. Any necessary procedures to:
 - a. Prevent accidental spills;
 - b. Inspect and maintain storage areas;
 - c. Handle and transfer materials;
 - d. Control loading and unloading operations;
 - e. Control plant site run-off; and
 - f. Train workers.
5. Any necessary measures for building containment structures or equipment;
6. Any additional measures necessary to contain toxic organic pollutants, including solvents;
7. Any necessary procedures and equipment for emergency response; and
8. Any necessary practices to limit the damage suffered by the treatment plant or the environment after a slug discharge.

SECTION 41. NR 211.25(3)(d) is amended to read:

NR 211.25(3)(d) ~~All POTW's~~ A POTW receiving reports from industrial users ~~are required under s. NR 211.15,~~ shall retain ~~those~~ the reports for a minimum of 3 years. ~~This period shall be extended during the pendency of any litigation to which the POTW or any industrial user discharging to the POTW is~~

~~a party or at the request of the department or EPA. A POTW shall retain these reports for additional periods at the request of the department or EPA. All reports related to litigation to which the POTW or the reporting industrial user is a party shall be retained until the conclusion of the litigation.~~
These reports shall be made available for inspection or copying to the department and EPA.

SECTION 42. NR 211.25(4) is created to read:

NR 211.25 (4) POTWs with approved pretreatment programs shall provide the department with a report which describes the POTW's program activities, including the activities of all participating agencies if more than one jurisdiction is involved in the local program. This report shall be submitted no later than one year after approval of the POTW's pretreatment program and at least annually thereafter. At a minimum, the report shall include:

(a) The name and address of each industrial user or a list of deletions and additions keyed to a previously submitted list with a brief explanation for each deletion. The list shall include:

1. A list of significant industrial users with reasons for each significant industrial user designation and identification of applicable pretreatment standards for each categorical industrial user;

2. A list of significant industrial users that the POTW has determined to regulate as a nonsignificant industrial user and the reasons for that determination.

(b) A summary of the POTW's compliance assessment and enforcement activities, including activities such as inspections, sampling and review of slug control plans;

(c) A summary of industrial user compliance over the reporting period;
and

(d) Any other information requested by the department.

SECTION 43. NR 211.27 is created to read:

NR 211.27 PRETREATMENT PROGRAM MODIFICATION. (1) A POTW may initiate a pretreatment program modification at any time to reflect changing conditions in the pretreatment program. Pretreatment program modification is necessary whenever the pretreatment program will be significantly different from the pretreatment program previously approved by the department.

(2) To initiate a modification, the POTW shall submit to the department a statement of the basis for the desired modification, a modified program description and any other documents the department determines to be necessary. The department shall review, public notice and approve or deny the requested modification according to the procedures of s. NR 211.30(7).

SECTION 44. NR 211.30(1) and (2) are amended to read:

NR 211.30(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. The department shall complete its initial review and inform the POTW whether the submission is sufficient within 60 days. 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~~ 20 days after making the initial determination that the POTW submittal meets the requirements of ss. NR 211.22 ~~through~~ to 211.26 for

pretreatment program approval, ~~and~~ or s. NR 211.13 for removal credit authorization, the department shall publish a public notice of receipt of the request or authorization. The notice shall provide an opportunity for the POTW or any interested person to submit written comments or to request a public hearing under s. 147.13, Stats., with respect to the submittal. The public notice shall provide a period of not less than 30 days following the date of the public notice during which time written comments and requests for public hearing shall be filed. All written comments received during this time shall be considered in determining whether or not to approve the POTW's request. The comment period may be extended at the department's discretion.

SECTION 45. NR 211.30(6) and (7) are created to read:

NR 211.30(6) The department shall make implementation of an approved pretreatment program an enforceable condition in the POTW's WPDES permit.

(7)(a) The department shall use the procedures in subs. (1) to (5) for approval of any of the following pretreatment program modifications:

1. Changes to the POTW's legal authorities;
2. Changes to local limits which result in less stringent limits;
3. Changes to the POTW's control mechanism;
4. Changes to the POTW's method for implementing categorical pretreatment standards;
5. A decrease in the frequency of self monitoring or reporting required of industrial users;
6. A decrease in the frequency of industrial user inspection or sampling by the POTW;
7. Changes to the POTW's confidentiality procedures;

8. Significant reductions in the POTW's pretreatment program resources, including personnel, equipment or funding;

9. Changes in the POTW's sludge disposal and management practices that result from industrial user pollutant discharges;

10. Any other modification which would have a significant impact on the operation of the POTW's pretreatment program, result in increased pollutant loadings at the POTW or result in less stringent requirements being imposed upon industrial users; and

11. Any other specific modification designated by the department.

(b) For any modifications not listed in par. (a), the department shall be considered to have approved the modification unless the department expresses objections to the POTW within 90 days after submission of the POTW's request for modification.

(c) After approval by the department, the modification shall be incorporated in the POTW's WPDES permit.

SECTION 46. NR 211.31(1)(g) is amended to read:

~~NR 211.31(1)(g) Annually publish in the largest daily newspaper published in the municipality in which the POTW is located, the names of industrial users which during the previous 12 months significantly violated applicable pretreatment standards or requirements. The notification shall summarize enforcement actions taken by the control authority during the same 12 months. For purposes of this provision significant violation is a violation which remains uncorrected 45 days after notification of noncompliance, which is part of a pattern of noncompliance over a 12-month period, or which involves a failure to accurately report noncompliance that~~

meet any of the criteria in s. NR 211.23(1)(j)1 to 8. The list of industrial users shall be published in the newspaper with the largest circulation in the municipality in which the industrial user is located.

SECTION 47. NR 211.33(1) is amended to read:

NR 211.33(1) Within 60 days after the effective date of a categorical pretreatment standard ~~or within 60 days after notice in the federal register of the availability of the technical development document~~ for a subcategory under which an industrial user believes itself to be included, ~~whichever is later~~, the industrial user may request the department to provide written certification that the industrial user does or does not fall within that particular subcategory. If an existing industrial user adds or changes a process or operation which may be included in a subcategory, the existing industrial user shall request this certification prior to commencing discharge from the added or changed process or operation. New sources desiring certification must request this certification prior to commencing discharge.

SECTION 48. NR 211.33(3) is repealed and recreated to read:

NR 211.33(3) Each request for certification shall be submitted to the department and shall contain the following:

- (a) A statement describing which subcategories might be applicable;
- (b) Facts and reasons indicating why a particular subcategory is applicable and why others are not applicable; and
- (c) The certification statement contained in s. NR 211.15(10).

The foregoing rules were approved and adopted by the State of Wisconsin
Natural Resources Board on October 24, 1991.

The rules shall take effect on the first day of the month following
publication in the Wisconsin administrative register, as provided in
s. 227.22(2), Stats.

Dated at Madison, Wisconsin,

January 7, 1992.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By

Carroll D. Besadny
Carroll D. Besadny, Secretary

SEAL

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Bureau

