

Comments and DNR Responses Natural Resources Board Order WY-14-19

October 20, 2021

This document presents a summary of public comments received on proposed rules creating chapter NR 229 related to regulation of wastewater discharges from dental offices to sanitary sewers.

OVERVIEW

The proposed rule requires dental offices to control the discharge of mercury and other metals in dental amalgam to publicly owned treatment works (POTWs) based on the best available technology or best available demonstrated control technology. Specifically, the requirements are based on the use of amalgam separators and best management practices recommended by the American Dental Association (ADA). The best management practices (BMPs) are:

- prohibiting the discharge of waste (or “scrap”) amalgam; and
- prohibiting of the use of line cleaners that are oxidizing or acidic and that have a pH higher than 8 or lower than 6.

Amalgam separators are a practical, affordable, and readily available technology for capturing mercury and other metals before they are discharged into sewers that drain to POTWs. The mercury collected by these separators can be recycled. This rule also includes a provision to significantly reduce and streamline the oversight and reporting requirements in pretreatment regulations that would otherwise apply as a result of this rulemaking. The rule requires dental offices to meet a performance standard that includes BMPs and the use of an amalgam separator(s) compliant with the American National Standards Institute (ANSI)/ADA Specification 108 for Amalgam Separators (2009) with Technical Addendum (2011), (ANSI/ADA, 2009; ANSI/ADA, 2011). ISO, a voluntary standard setting organization, established a standard for measuring amalgam separator efficiency by evaluating the retention of amalgam solids using specified test procedures in a laboratory setting [2008 International Organization for Standardization (ISO) 11143 standard (ISO, 2008)] which is identical to the ANSI/ADA standard with the Technical Addendum. In order to meet the ISO standard, a separator must achieve 95 percent removal or greater of total solids. The standard also includes requirements for instructions on the use, operation, and maintenance of amalgam separators (see proposed s. NR 229.03 (a) (1) 4., Wis. Adm. Code).

ECONOMIC IMPACT ANALYSIS

A public comment period on the draft EIA occurred from June 7 to July 7, 2021.

The department received comments from two individuals and no organizations on the EIA during this period. One comment indicated that they felt mercury amalgam separators were relatively inexpensive, but that due to COVID-19 and overall financial hardships, a tax benefit for the cost of the separators would be helpful. The other comment stated that amalgam separators were already in common use by dental offices and new regulations were not necessary.

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

The Legislative Council Rules Clearinghouse submitted comments on form, style and placement; and clarity, grammar, punctuation and use of plain language. Changes to the proposed rule were made to address all recommendations by the Legislative Council Rules Clearinghouse.

PUBLIC COMMENTS ON DRAFT RULE

A public comment period for the draft rule occurred from August 9 to September 14, 2021, with a public hearing on September 7, 2021. No members of the public attended the hearing.

The department received one written comment from a POTW in support of the proposed rule and one comment from a private citizen stating that they felt discharges from dental offices did not contribute an amount of pollutants that required regulation.

DNR RESPONSE TO PUBLIC COMMENTS

After years of study and discussion with stakeholders, the U.S. Environmental Protection Agency (EPA) brought dental office discharges within the purview of the Clean Water Act by establishing pretreatment standards for dental offices. The department is required under state statute and administrative code to promulgate pretreatment standards for point sources after they are established by EPA. s. 283.11 (1), Wis. Stats.; s. NR 211.34 (2), Wis. Adm. Code.

The department did not make any changes to the draft rule or EIA based on public comments.