

4. Sampling and analysis shall be performed according to methods prescribed by the department.

5. Representative historical data may be used with the approval of the control authority.

6. The report shall indicate the time, date, and place of sampling, method of analysis, and shall certify that sampling and analysis are representative of normal work cycles and expected pollutant discharges to the POTW.

(f) A statement indicating whether the applicable categorical pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance, or additional pretreatment, or both, is required in order for the industrial user to meet the applicable categorical pretreatment standards. The statement shall be reviewed by an authorized representative of the industrial user and certified by a qualified professional.

(g) If additional pretreatment or operation and maintenance is needed, the industrial user shall submit the shortest schedule by which additional treatment or operation and maintenance can be provided. The completion date resulting from this schedule may not be later than the compliance date established for the applicable categorical pretreatment standard. The schedule shall specify dates for the commencement and completion of the major events necessary to provide the additional pretreatment or operation and maintenance. The length of time between any two dates may not exceed 9 months.

(h) Where the industrial user's discharge limit has been modified by a fundamentally different factors variance at the time the report is submitted, the information required in pars. (f) and (g) shall pertain to the modified limit. Revisions to the information submitted under pars. (f) and (g) may be required by the department where the industrial user's discharge limit is modified at a later date.

(2) Not later than 14 days following each date in the schedule required in sub. (1) (g), the industrial user shall submit to the control authority a progress report, including at a minimum a statement of whether the required event was completed by the specified date and if not, the reason for delay, the steps being taken to return to the schedule, and the date on which the required event will be completed.

(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, 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.

(4) After the compliance date for a categorical pretreatment standard, industrial users shall submit semi-annual reports to the control authority. New sources shall submit the 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. 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.

(5) In order to provide the data required to complete the reports specified in subs. (3) and (4), the industrial user shall sample and analyze regulated pollutants and pollutant properties at least one operating day during each reporting period. 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. Analysis of the samples shall be performed in accordance with ch. NR 219.

(6) The industrial user shall notify the POTW immediately of any slug loading in violation of s. NR 211.10 (2).

(7) All reports required by this section shall be signed by:

(a) A principal executive officer of at least the level of vice president if the industrial user is a corporation;

(b) A general partner if the industrial user is a partnership;

(c) The proprietor if the industrial user is a sole proprietorship; or

(d) A duly authorized representative of the individual designated in pars. (a) through (c) if such representative is responsible for the overall operation of the facility producing the indirect discharge.

(8) (a) Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from all monitoring activities. Such records shall include for all samples:

1. The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;

2. The dates the analyses were performed;

3. The name of the person who performed the analyses;

4. The analytical techniques or methods used; and

5. The results of the analyses.

(b) Any industrial user subject to the reporting requirements established in this section shall retain for a minimum of 3 years all records of monitoring activities and results, whether or not such monitoring activi-

ties are required by this section, and shall make such records available for inspection and copying by EPA, the department, and the receiving POTW. This period for retaining records shall be extended during the pendency of any litigation to which the industrial user or the POTW into which the industrial user discharges is a party, or when requested by the department or EPA.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

Subchapter II — POTW Requirements

NR 211.20 Establishment of pretreatment programs. The department may require any POTW with a design flow greater than 5 MGD which receives indirect discharges which pass through or interfere with the POTW's operations or are subject to pretreatment standards to establish a POTW pretreatment program in accordance with the provisions of ss. NR 211.21 through 211.26. In addition, the department may require any POTW with a design flow of 5 MGD or less to establish such a program or part of such a program if the nature or volume of industrial user contributions, treatment process upsets, violations of POTW effluent limits, contamination of municipal sludge, or other circumstances warrant such a program in order to prevent interference with POTW treatment operations or the pass-through of untreated pollutants or in order to improve opportunities for disposal of municipal sludge. The pretreatment program shall be developed in accordance with a compliance schedule established by the department in the POTW's WPDES permit which calls for the completion by specific dates of major events leading to the development and implementation of the pretreatment program.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

NR 211.21 Compliance dates. A POTW shall receive approval for a pretreatment program no later than 3 years after the reissuance or modification of its existing WPDES permit to require the development of a pretreatment program, 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.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

NR 211.22 Legal authority requirements. Where the department requires a POTW to develop a pretreatment program under this subchapter, the POTW shall operate under legal authority, enforceable in federal or state courts, which at a minimum enables the POTW to perform the following functions:

(1) Deny or condition new or increased discharge of pollutants, or changes in the nature of pollutants, discharged to the POTW by industrial users where such discharges do not meet applicable pretreatment standards and requirements or where such discharge causes the POTW to violate its WPDES permit.

(2) Require compliance with applicable pretreatment standards and requirements by industrial users.

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

(4) Require the development by industrial users of the compliance schedules required under s. NR 211.15 (1) (g).

(5) Require the submission of all notices and self-monitoring reports from industrial users as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements.

(6) Carry out all inspection, surveillance, and monitoring procedures necessary to determine, independent of information supplied by industrial users, whether industrial users are complying with applicable pretreatment standards and requirements. Representatives of the POTW must be authorized to enter any premises of any industrial user in which an affluent source or treatment system is located or in which records are required to be kept, under s. NR 211.15 (8), to assure compliance with pretreatment standards and requirements.

(7) Obtain remedies for noncompliance by any industrial user with any pretreatment standard or requirement. All POTWs must be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. In cases in which the POTW has the power to enact ordinances or rules, the POTW shall pass ordinances or rules giving it the authority to seek or assess civil or criminal penalties for noncompliance by industrial users with pretreatment standards and requirements. POTWs without such authority shall enter into contracts with industrial users to assure compliance by industrial users with pretreatment standards and requirements. All contracts shall provide for liquidated damages for violation of pretreatment standards and requirements and shall include an agreement by the industrial user to submit to the remedy of specific performance for breach of contract. Pretreatment requirements which will be enforced through the remedies set forth above shall include but not be limited to, the duty of the industrial user to allow the POTW to enter and to carry out inspections and monitoring activities; the duty of the industrial user to comply with all rules, regulations, and orders issued by the POTW; and the duty of the industrial user to comply with all reporting requirements imposed by the POTW or by this chapter.

(8) After informal notice to the industrial user, immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appear to present an imminent danger to the health or welfare of persons.

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

(10) Comply with the confidentiality requirements of s. NR 211.26.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

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

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

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

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

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

(e) 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.

(f) 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.

(g) Annually publish, in the largest daily newspaper published in the municipality in which the POTW is located, a list of the industrial users which, during the previous 12 months, significantly violated applicable pretreatment standards or requirements. The notification shall also summarize the enforcement actions taken by the POTW in the same 12-month period. The the purposes of this provision, a 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 or which resulted in the POTW exercising its emergency authority as required by s. NR 211.22 (8) and (9).

(h) Information obtained under pars. (a) through (f) shall be made available to the department or EPA upon request.

(2) The POTW shall have sufficient resources and qualified personnel to carry out the authority and procedures described in this section and s. NR 211.22, unless conditional approval of the pretreatment program is requested under s. NR 211.24 (2).

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

NR 211.24 Requests for pretreatment program approval. (1) A POTW requesting approval of its pretreatment program shall submit to the department in triplicate a description of the pretreatment program containing the following:

(a) A statement from the POTW's attorney that the POTW has adequate legal authority to carry out the pretreatment program. This statement shall identify the POTW's source of those legal powers required under s. NR 211.22, and shall identify the manner in which the POTW will implement the requirements of s. NR 211.23.

(b) A copy of all statutes, ordinances, regulations, contracts, agreements, and other written legal authority relied upon by the POTW for its administration of the pretreatment program.

(c) A statement reflecting approval of the POTW's pretreatment program by the local governmental bodies responsible for supervising and funding the pretreatment program.

(d) A brief description, including organizational charts, of the POTW or other governmental bodies which will administer the pretreatment program, and their respective responsibilities.

(e) A description of the funding for the pretreatment program and full and part-time positions available to implement the program.

(2) The department may grant conditional approval of the pretreatment program pending the acquisition of funding and personnel for certain elements of the program provided that the conditions of pars. (a) through (c) are met. The POTW must submit a written request for conditional approval containing, in addition to the information required in sub. (1), facts to support a conclusion that the conditions set forth in pars. (a) through (c) are met. The conditional approval of the POTW pretreatment program may be withdrawn if funding and personnel are not acquired by a date established by the department.

(a) The delayed funding and hiring of personnel is directly related to an aspect of the program which the POTW is not required to implement immediately.

(b) The POTW has adequate legal authority and procedures to carry out those aspects of the program which will not be implemented immediately.

(c) Funding and personnel for those aspects of the program to be implemented at a later date will be available when needed. The POTW shall describe the mechanism by which the funding will be acquired.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

NR 211.25 Reporting requirements. (1) The POTW shall submit interim program development documents to the department as required by the compliance schedule in its WPDES permit. If a required interim document has not been submitted on time, the POTW shall indicate the date by which it expects to complete the document, the reasons for delay, and the steps taken to return to the established schedule.

(2) Documents submitted in accordance with this section shall be signed by a principal executive officer, ranking elected official, or a duly authorized employe if the employe is responsible for the overall operation of the POTW.

(3) Any POTW operating a pretreatment program shall maintain records of information resulting from all monitoring activities. These records shall include for all samples:

(a) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;

(b) The dates the analyses were performed;

(c) The name of the person performing the analyses;

(d) The analytical techniques or methods used; and

(e) The results of the analyses.

(4) Records and results from all monitoring activities, whether required by this section or not, shall be retained for a minimum of 3 years. This time period shall be extended at the department's request or during the pendency of any litigation to which the POTW or any industrial user discharging to the POTW is a party. These records shall be made available for inspection or copying to the department and EPA upon request.

(5) All POTW's receiving reports from industrial users are required under s. NR 211.15, shall retain those 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. These reports shall be made available for inspection or copying to the department and EPA.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

NR 211.26 Confidentiality. Effluent data submitted to the control authority under this chapter shall be a public record within the meaning of s. 19.21, Stats. All other information submitted to the control authority under this chapter shall be a public record unless the information is entitled to confidential treatment under s. 147.08(2), Stats., and s. NR 2.19 as a trade secret. POTWs operating a pretreatment program must enact ordinances or rules giving them the authority to treat as confidential information which is a trade secret.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

Subchapter III — Department Activities

NR 211.30 Pretreatment program approval. (1) Upon receipt of a request from a POTW for pretreatment program approval 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, the department shall publish a public notice of receipt of the request for approval. 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 public notice during which time written comments and requests for public hearing must 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.

(3) The department shall hold a hearing if the requirements of s. 147.13, Stats., are met. Public notice of the hearing shall be provided under s. 147.13, Stats.

(4) The department shall have 90 days from the date of public notice of receipt of any request for approval submitted in compliance with the requirements of s. NR 211.24 to review the request for compliance with

the requirements of ss. NR 211.22 through 211.26. The department may have up to 90 days more to complete its review if the comment period provided for in sub. (2) of this section is extended beyond 30 days or if a public hearing is held under s. 147.13, Stats. In no event shall the total time for evaluation exceed 180 days from the date of public notice of receipt of a request for approval.

(5) At the end of this evaluation and comment period the department shall either approve or disapprove the request for approval. The department shall publish a notice of determination to approve or disapprove the pretreatment program and shall mail copies of the notice to the POTW and to each person who submitted a written comment or participated in the public hearing or who requested a copy of the notice. If the pretreatment program is not approved, the notice of disapproval shall state the modifications and revisions necessary to bring the pretreatment program into compliance with applicable requirements.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

NR 211.31 Department activities in the absence of a pretreatment program. (1) In the absence of a pretreatment program, the department may:

(a) Identify and locate all possible industrial users which might be subject to pretreatment standards or requirements.

(b) Identify the character and volume of pollutants contributed to the POTW by the industrial users identified under par. (a).

(c) Notify industrial users identified under par. (a) of applicable pretreatment standards and of any applicable solid or hazardous waste disposal requirements under ch. 144, Stats.

(d) Receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the self-monitoring requirements of s. NR 211.15.

(e) 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.

(f) Investigate instances of noncompliance with pretreatment standards and requirements indicated in the reports and notices required under s. NR 211.15.

(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 the purposes of this provision a 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.