

The statement of scope for this rule, SS 121-19, was approved by the Governor on December 5, 2019, published in Register No. 768A2 on December 9, 2019, and approved by the Natural Resources Board on May 27, 2020. This rule was approved by the Governor on insert date.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
CREATING RULES

The Wisconsin Natural Resources Board proposes an order to **create** NR 229 relating to regulation of wastewater discharges from dental offices to sanitary sewers and affecting small business.

**WY-14-19**

**Analysis Prepared by the Department of Natural Resources**

**1. Statute Interpreted:** Sections 283.001 (2), 283.13 (2), and 283.21, Wis. Stats.

**2. Statutory Authority:** The department is required to promulgate by rule effluent limitations, standards of performance for new sources, toxic effluent standards or prohibitions and pretreatment standards for any category or class of point sources established by the U.S. environmental protection agency and for which that agency has promulgated any effluent limitations, toxic effluent standards or prohibitions or pretreatment standards for any pollutant under s. 283.11 (1), Wis. Stats.

**3. Explanation of Agency Authority:** Section 283.001 (2), Wis. Stats., allows the department to establish, administer and maintain a state pollutant discharge elimination system in order to regulate the discharge of pollutants within the state.

Section 283.001 (2) states in part, “The purpose of this chapter is to grant to the department of natural resources all authority necessary to establish, administer and maintain a state pollutant discharge elimination system.”

Section 283.13 (2), Wis. Stats., requires that point sources of pollutants other than publicly owned treatment works (POTWs) and storm water dischargers are required to implement application of the best practical control technology to reduce the discharge of pollutants from point sources, specifically those categorized as toxic.

Section 283.13 (2) reads in part: “The discharge from any point source, other than a publicly owned treatment works or a source of storm water permitted under s. 283.33, shall comply with the following requirements:

**(a) Best practicable technology.** The application of the best practicable control technology currently available.

**(b) Requirements for certain pollutants.** For pollutants identified under pars. (c), (d) and (f):

**1.**

**a.** The application of the best available technology economically achievable for a point source or a category or class of point sources which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants as stated in the federal water pollution control act, as amended, 33 USC 1251 to 1376; or

**b.** The application of the best available technology which will result in the elimination of the discharge of all pollutants if the department finds on the basis of information available to it that the elimination is technologically and economically achievable for a category or class of point sources.

**2.** The application of any applicable pretreatment requirements or any other requirements under s. 283.21 to any point source discharging pollutants into a publicly owned treatment works.

**(c)** *Certain toxic pollutants; compliance by July 1, 1984.* Compliance with the effluent limitations under par. (b) with respect to all toxic pollutants referred to in table 1 of committee print number 95-30 of the committee on public works and transportation of the U.S. house of representatives by no later than July 1, 1984.

**(d)** *Other toxic pollutants; compliance within 3 years after limitations are established.* Compliance with effluent limitations under par. (b) with respect to all toxic pollutants included on the list promulgated under s. 283.21 (1) (a) but which are not included in the table referred to under par. (c) not later than 3 years after the date the effluent limitations are established.”

Section 283.21, Wis. Stats., establishes effluent standards for pretreatment of wastewater and the discharge of toxic pollutants. This section requires the department to establish a list of toxic pollutants, promulgate effluent standards for those pollutants, and establish pretreatment standards for pollutants introduced into publicly owned treatment works that would ordinarily not be treated or would have a negative effect on the facility.

Section 283.21 (1) reads in part: “TOXIC EFFLUENT LIMITATIONS AND STANDARDS. **(a)** *List.* The department shall promulgate by rule a list of toxic pollutants or combinations of pollutants subject to this chapter which consists of those toxic pollutants referred to in table 1 of committee print number 95-30 of the committee on public works and transportation of the U.S. house of representatives. After promulgation of this list, the department may revise by rule the list periodically and may add to or remove from the list any pollutant. In revising this list the department shall consider the toxicity of the pollutant, its persistence, degradability, the usual or potential presence in any waters of any organisms affected by the discharge of the toxic pollutant or combination of pollutants, the importance of the affected organism and the nature and extent of the effect of the toxic pollutant on these organisms. A determination by the department under this subsection is subject to declaratory judgment proceedings under s. 227.40.

**(b)** *Effluent standards.* The department may promulgate by rule an effluent standard, which may include a prohibition, establishing requirements for a toxic pollutant which, if an effluent limitation is applicable to a class or category of point sources, is applicable to that category or class of point sources only if this effluent standard imposes more stringent requirements than are imposed under s. 283.13 (2) (b). An effluent standard promulgated under this section shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of affected organisms in any waters, the importance of affected organisms, the nature and extent of the effect of the toxic pollutant on these organisms and the extent to which effective control is being or may be achieved under other regulatory authority.”

Section 283.21 (2) (a) reads: “The department shall by rule promulgate pretreatment standards to regulate the introduction into publicly owned treatment works of pollutants which are not susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works.”

**4. Related Statutes or Rules:** Chapters NR 211, 215, 661, and 662, Wis. Adm. Code.

Chapter NR 211, Wis. Adm. Code, establishes requirements for POTWs and point source dischargers of pollutants to POTWs to prevent the discharge of pollutants that would interfere with the operation of the treatment works, pass through treatment works insufficiently treated, or impair the use or disposal of the sludge generated by treatment works.

Chapter NR 215, Wis. Adm. Code, is the list of toxic, conventional, and nonconventional pollutants required under s. 283.21, Wis. Stats. Mercury, which is a significant component of dental amalgam, is included on that list under s. NR 215.03 (6) (j), Wis Adm. Code.

Chapters NR 221-297, Wis. Adm. Code, contain effluent limitation guidelines for industrial categories of dischargers, just as this proposed rule will for dental offices. Effluent limitation guidelines are typically promulgated by the U.S. Environmental Protection Agency (EPA) and adopted into this range of administrative code chapters, just as is the case with this proposed rule.

Chapter NR 661, Wis. Adm. Code, in part identifies solid wastes subject to regulation as hazardous wastes under ch. NR 662, Wis. Adm. Code. Mercury is specifically listed in ch. NR 661 Appendix VIII, HAZARDOUS CONSTITUENTS.

Chapter NR 662, Wis. Adm. Code, establishes requirements for storage, transport, disposal, and recordkeeping related to hazardous wastes. Mercury collected in an amalgam separator is classified as a solid hazardous waste under ch. NR 661, Wis. Adm. Code.

**5. Plain Language Analysis:** The proposed rule requires dental offices to control the discharge of mercury and other metals in dental amalgam to 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  
prohibition 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 2008 International Organization for Standardization (ISO) 11143 standard (ISO, 2008), or 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. 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).

The rule also includes a provision such that the performance standard can be met with the use of an amalgam removing technology other than an amalgam separator (equivalent device). This provision was included to incorporate future technologies that achieve comparable removals of pollutants from dental discharges as amalgam separators, but that may not fall under the amalgam separator classification.

Because the rule does not include a numerical limit, the performance standards also specify certain operation and maintenance requirements for the amalgam separator(s) or comparable device to ensure they are operated optimally. In addition to installing one or more amalgam separators compliant with the ISO 11143 standard (or its equivalent) and implementing the required BMPs, the pretreatment standards

specify certain operating and maintenance requirements for the amalgam separator. These requirements include:

documented amalgam separator inspection as specified by the manufacturer's user manual to ensure the separator is performing properly and to confirm that all amalgam process wastewater is flowing through the amalgam retaining portion of the separator;

replacement of the amalgam retaining unit of the device in accordance with the manufacturer's schedule or when the amalgam retaining unit has reached the maximum level, whichever comes first;

repair/replacement as needed; and

recycling/disposal of amalgam waste.

Reporting requirements include a One-time Compliance Report.

The rule allows dental offices to continue to operate amalgam separators installed prior to publication of this rule for the equipment lifetime or ten years (whichever comes first), as long as the dental discharger complies with the other rule requirements including the specified BMPs, operation and maintenance, reporting, and recordkeeping requirements.

Once the separator needs to be replaced or the ten-year period has ended, whichever comes first, dental offices will need to replace the amalgam separator with one that meets the requirements of the final rule.

Dental offices that do not place amalgam, and do not remove dental amalgam except in limited emergency or unplanned, unanticipated circumstances are exempt from any further requirements as long as they certify such in their One-time Compliance Report.

In addition, the rule minimizes the administrative burden on dental offices subject to the rule, as well as the department and local regulatory authorities (Control Authorities) responsible for oversight and enforcement of the new standard.

When categorical pretreatment requirements are established, the proposed rule triggers additional oversight and reporting requirements. The Control Authorities are responsible for administering and enforcing pretreatment standards, including receiving and reviewing compliance reports. Application of typical categorical discharger oversight and reporting requirements to all of the dental offices in the state would require a large amount of additional staff time.

Further, dental office discharges differ from other industries for which categorical pretreatment standards have been established. Both the volume of wastewater discharged and the quantity of pollutants in the discharge on a per facility basis are significantly less than other industries for which categorical pretreatment standards have been established.

Accordingly, this rule exempts dental offices from the oversight and reporting requirements of categorical pretreatment standards, reflecting the department's recognition that the otherwise-applicable regulatory framework for categorical dischargers would be unlikely to have a significant positive impact on overall compliance with the rule across the dental industry, while imposing a substantial burden on state and local regulating authorities.

In order to simplify implementation and compliance for the dental offices and the regulating authorities, the rule establishes that dental dischargers are not Significant Industrial Users (SIUs) or Categorical Industrial Users (CIUs) as defined in ch. NR 211, Wis. Adm. Code, and are not "industrial users subject to categorical pretreatment standards" as those terms and variations are used in the administrative code, unless designated as such by the Control Authority.

While this rule establishes pretreatment standards that require dental offices to reduce dental amalgam discharges, the rule does not require Control Authorities to implement the traditional suite of oversight requirements in ch. NR 211, Wis. Adm. Code. This significantly reduces the reporting requirements for dental dischargers that would otherwise apply by instead requiring them to demonstrate compliance with the performance standard and BMPs through a One-Time Compliance Report to their Control Authority. This regulatory approach also eliminates the additional oversight requirements for Control Authorities that are typically associated with SIUs, such as permitting and annual inspections of individual dental offices.

It also eliminates additional reporting requirements for the Control Authorities typically associated with CIUs, such as identification of CIUs in their annual pretreatment reports. At the same time, the rule recognizes the Control Authority's discretionary authority to treat a dental discharger as an SIU and/or CIU if, in the Control Authority's judgement, it is necessary.

**6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:** This rule is a direct adoption of 40 CFR Part 441.

**7. Summary of Comments Received on the Statement of Scope and How the Agency Took Those Comments into Account in Drafting the Proposed Rule:** The department received one written comment from Milwaukee Metropolitan Sewerage District in support of the statement of scope. There were no attendees at the public hearing for the statement of scope.

**8. Comparison with Similar Rules in Adjacent States:** Adjacent states have not enacted similar rules and are instead applying 40 CFR 441. Pretreatment programs in Illinois are directly administered by Region 5 of the EPA, so 40 CFR 441 is being used directly. Under s. NR 211.34 (2), Wis. Adm. Code, the department is required to adopt pretreatment standards or requirements as soon as possible after the promulgation of any federal regulation establishing pretreatment standards or requirements. The same rule promulgation requirement is also found in s. 283.11 (1), Wis. Stats. (see item 2., above).

**9. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:** Dental offices discharge mercury present in amalgam used for fillings. 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. Once captured by a separator, mercury can be recycled.

EPA first identified the dental industry for study in its 2006 Effluent Guidelines Plan (71 FR 76644) as part of the health services industry. In 2008, EPA published its results from the detailed study in the technical report, Health Services Industry Detailed Study: Dental Amalgam (U.S. EPA, 2008). For that report, EPA compiled and summarized information on mercury discharges from dental offices, BMPs, and amalgam separators. Regarding amalgam separators, EPA examined their frequency of use, their effectiveness in reducing mercury discharges to POTWs, and the capital and annual costs of their installation and operation. The detailed study report also included a preliminary industry profile that provided the number of dental offices, the number of small businesses, discharge information, financial characteristics of the industry, and a description of the national, state, and local mandatory and voluntary programs to reduce mercury wastewater discharges from dental offices. EPA documented its findings in the August 2008 technical report, Health Services Industry Detailed Study: Dental Amalgam (EPA-821-R-08-014).

EPA Region 5 and Environment Canada, working through the Great Lakes Binational Toxics Strategy, created a Mercury Workgroup that promoted activities to reduce mercury releases to the Great Lakes Basin. This Workgroup included representative states, environmental organizations, and the Council of Great Lakes Industries. The Workgroup's review of mercury releases in the Great Lakes area focused on air emissions. As a result, the Workgroup did not collect trend data on mercury releases to water. The Workgroup reviewed information on BMPs and successful voluntary and regulatory approaches used in state and local programs, including dental amalgam reduction programs in King County, WA; Toronto, ON; Duluth, MN; and Cleveland, OH. The Workgroup did not quantify reductions in mercury use or reductions in wastewater discharges to POTWs.

EPA Region 8 developed a draft Mercury Control Strategy to help POTWs control mercury pollution problems from commercial and smaller industrial users, including dental offices. This draft Strategy included detailed information on the development of BMPs, amalgam separators, and other removal and filtration devices, as well as other background information regarding dental amalgam control approaches

EPA reviewed literature and collected data on various aspects of the dental industry, amalgam separators, and mercury discharges, including:

Current, relevant technical publications that describe the sources and generation of mercury wastes at dental offices and the discharge of mercury and other amalgam filling metals (i.e., copper, silver, tin, and zinc) to POTWs.

Current information on possible treatment solutions (i.e., amalgam separators) for dental offices to reduce mercury in the wastewater and their effectiveness.

Current implementation costs for technologies to reduce mercury and other metal discharges at dental offices.

EPA participated in several meetings with stakeholders including the Environmental Council of the States (ECOS), Association of Clean Water Act Administrators (ACWA), environmental organizations, the American Dental Association (ADA), the National Association of Clean Water Agencies (NACWA), and various environmental organizations.

#### **10. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:**

American Dental Association:

“An Economic Study of Expanded Duties of Dental Auxiliaries in Colorado” (ADA, 2009).

“2009 Survey of Dental Practice: Income from the Private Practice of Dentistry” (ADA, 2010).

EPA:

EPA-821-R-16-005 -Technical and Economic Development Document for the Final Effluent Limitations Guidelines and Standards for the Dental Category (US-EPA, 2016).

**11. Effect on Small Business (initial regulatory flexibility analysis):** DNR anticipates that the majority of entities (if not all) impacted by this rule are small businesses. As a result, the impact of this rule to small businesses will be the same as the broader impact of the rule to the business sector provided in section #14 of the Fiscal Estimate and Economic Impact Analysis, form DOA-2049 (attached).

The economic impact on dental entities, local government units, and small businesses, per year, is estimated at \$1.2 M. The analysis considered that 60% of the dental facilities in Wisconsin (an estimated 2,061 facilities) did not have the technology and equipment required, and as a result would have to install the required equipment to meet the federal regulations, which brought the cost to an estimated \$909,847.97. An estimated 40% of the 2,061 dental entities

with already installed technology would spend an estimated \$314,338.99, which brings the annual total to \$1,224,186.96.

**12. Agency Contact Person:** Richard Douglas; Department of Natural Resources, 101 S. Webster Street, Madison, WI 53707; Richard.Douglas@wisconsin.gov; (608) 267-6822

**13. Place where comments are to be submitted and deadline for submission:**

Written comments may be submitted at the public hearings, by regular mail, or by email to:

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PO Box 7921  
Madison, WI 53707  
(608) 267-6822  
[richard.douglas@wisconsin.gov](mailto:richard.douglas@wisconsin.gov)

Comments may be submitted to the department contact person listed above or to [DNRAAdministrativeRulesComments@wisconsin.gov](mailto:DNRAAdministrativeRulesComments@wisconsin.gov) until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the department's website, at <https://dnr.wi.gov/calendar/hearings/>. Comments may also be submitted through the Wisconsin Administrative Rules Website at <https://docs.legis.wisconsin.gov/code/chr/active>.

The consent of the Attorney General will be requested for the incorporation by reference of the American National Standards Institute/American Dental Association Specification for Amalgam Separators, published in 2009 (ANSI/ADA 108-2009) and its 2011 technical addendum; and ISO 11143:2008.

**RULE TEXT**

**SECTION NR 229 is created to read:**

**NR 229.01 Applicability.** (1) Except as provided under subs. (3), (4), and (5), this chapter applies to dental dischargers.

(2) Unless otherwise designated by the control authority, a dental discharger subject to this chapter is not a significant industrial user as defined under ch. NR 211, and is not a categorical industrial user or industrial user subject to categorical pretreatment standards as those terms and variations are used under ch. NR 211, as a result of applicability of this rule.

(3) This chapter does not apply to a dental discharger that exclusively practices one or more of the following dental specialties:

- (a) Oral pathology.
- (b) Oral and maxillofacial radiology.
- (c) Oral and maxillofacial surgery.
- (d) Orthodontics.
- (e) Periodontics.
- (f) Prosthodontics.

(4) This chapter does not apply to wastewater discharges from a mobile unit operated by a dental discharger.

(5) This chapter does not apply to a dental discharger that does not discharge any amalgam process wastewater to a POTW, such as a dental discharger that collects all amalgam process wastewater for transfer to a centralized waste treater as defined under s. NR 211.03 (2e).

(6) A dental discharger that does not place dental amalgam and does not remove dental amalgam except in limited emergency or unplanned, unanticipated circumstances, and that certifies such to the control authority as required under s. NR 229.05 is exempt from any further requirements of this chapter.

**NR 229.02 Definitions.** In this chapter:

(1) “Amalgam” or “dental amalgam” means an alloy of elemental mercury and other metal that is used in the practice of dentistry.

(2) “Amalgam process wastewater” means any wastewater generated and discharged by a dental discharger through the practice of dentistry that may contain dental amalgam.

(3) “Amalgam separator” means a collection device designed to capture and remove dental amalgam from the amalgam process wastewater of a dental facility.

(4) “Authorized representative” means the person authorized to sign documents as prescribed under s. NR 211.15 (10).

(5) “Control authority” has the meaning provided under s. NR 211.03 (4).

(6) “Dental discharger” means a facility where the practice of dentistry is performed and that discharges wastewater to a POTW, including institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by federal, state, or local governments, and the sole proprietorship, partnership, or corporation that oversees the operation of such a facility.

(7) “Existing source” means a dental discharger that is not a new source.

(8) “Mobile unit” means a specialized mobile self-contained van, trailer, or equipment used in providing dentistry services at multiple locations.

(9) “New sources” means a dental discharger whose first discharge to a POTW occurs after July 14, 2017.

(10) “POTW” has the meaning provided under s. NR 211.03 (11).

Note: POTW is the abbreviation for publicly owned treatment works.

**NR 229.03 Pretreatment standards for existing sources.** No later than July 14, 2020, any existing source subject to this chapter shall achieve all of the following:

(1) Removal of dental amalgam solids from all amalgam process wastewater by one of the following methods:

(a) Installation, operation, and maintenance of one or more amalgam separators that meet all of the following requirements:

1. The amalgam separator is compliant with either ANSI/ADA 108-2009 with the 2011 technical addendum or ISO 11143:2008, incorporated by reference. Compliance shall be assessed by an accredited testing laboratory under ANSI's accreditation program for product certification or a testing laboratory that is a signatory to the International Laboratory Accreditation Cooperation's Mutual Recognition Arrangement. The testing laboratory's scope of accreditation shall include ANSI/ADA 108-2009 or ISO 11143.

Note: ANSI/ADA 108-2009 is the American National Standards Institute/American Dental Association Specification for Amalgam Separators, published in 2009. Copies of ANSI/ADA 108-2009 and the 2011 technical addendum are available at <http://www.ada.org>. Copies of ISO 11143:2008 are available at <http://webstore.ansi.org>. Copies are also available for inspection at the offices of the department of natural resources and the legislative reference bureau.



2. The amalgam separator is sized to accommodate the maximum discharge rate of amalgam process wastewater.

3. A dental discharger that operates an amalgam separator that was installed at a dental facility prior to June 14, 2017, satisfies the requirements of subds. 1. and 2. until the existing separator is replaced as described under subd. 5., or until June 14, 2027, whichever is sooner.

4. The separator is inspected in accordance with the manufacturer's operating manual to ensure proper operation and maintenance of the separator and to confirm that all amalgam process wastewater is flowing through the amalgam retaining portion of the amalgam separator.

5. In the event that an amalgam separator is not functioning properly, the amalgam separator is repaired consistent with manufacturer instructions or replaced with a unit that meets the requirements under subds. 1. and 2. as soon as possible, but no later than 10 business days after the malfunction is discovered by the dental discharger, or an agent or representative of the dental discharger.

6. The amalgam retaining unit is replaced in accordance with the manufacturer's schedule as specified in the manufacturer's operating manual or when the amalgam retaining unit has reached the maximum level, as specified by the manufacturer in the operating manual, at which time the amalgam separator can perform to the specified efficiency, whichever comes first.

(b) Installation, operation, and maintenance of one or more amalgam removal devices other than an amalgam separator. The amalgam removal device shall meet all of the following requirements:

1. The removal efficiency shall be at least 95 percent of the mass of solids from all amalgam process wastewater. The removal efficiency shall be calculated in grams recorded to 3 decimal places, on a dry weight basis. The removal efficiency shall be demonstrated at the maximum water flow rate through the device as established by the device manufacturer's instructions for use.

2. The removal efficiency shall be determined using the average performance of 3 samples. The removal efficiency shall be demonstrated using a test sample of dental amalgam that meets all of the following particle size distribution specifications:

a. 60 percent by mass of particles that pass through a 3,150  $\mu\text{m}$  sieve but that do not pass through a 500  $\mu\text{m}$  sieve.

b. 10 percent by mass of particles that pass through a 500  $\mu\text{m}$  sieve but that do not pass through a 100  $\mu\text{m}$  sieve.

c. 30 percent by mass of particles that pass through a 100  $\mu\text{m}$  sieve.

2m. Each of the 3 particle size distributions specified under subd. 2. shall contain a representative distribution of particle sizes.

3. The device shall be sized to accommodate the maximum discharge rate of amalgam process wastewater.

4. The device shall be accompanied by the manufacturer's manual providing instructions for use including the frequency for inspection and collecting container replacement such that the unit is replaced once it has reached the maximum filling level at which the device can perform to the specified efficiency.

5. The device shall be inspected in accordance with the manufacturer's operation manual to ensure proper operation and maintenance, including confirmation that amalgam process wastewater is flowing through the amalgam separating portion of the device.

6. In the event that a device is not functioning properly, it shall be repaired consistent with manufacturer instructions or replaced with a unit that meets the requirements under subds.

1. to 3. as soon as possible, but no later than 10 business days after the malfunction is discovered by the dental discharger, or an agent or representative of the dental discharger.

7. The amalgam retaining unit of the device shall be replaced as specified in the manufacturer's operating manual, or when the collecting container has reached the maximum filling level, as specified by the manufacturer in the operating manual, at which time the amalgam separator can perform to the specified efficiency, whichever comes first.

8. The demonstration of the device under subs. 1. to 3. shall be documented in the one-time compliance report required under s. 229.05.

(2) Implementation of all of the following best management practices:

(a) Waste amalgam including dental amalgam from chair-side traps, screens, vacuum pump filters, dental tools, cuspidors, or collection devices, shall not be discharged to a POTW.

(b) Dental unit water lines, chair-side traps, and vacuum lines that discharge amalgam process wastewater to a POTW shall not be cleaned with oxidizing or acidic cleaners, including bleach, chlorine, iodine, or peroxide that have a pH lower than 6 or greater than 8.

**NR 229.04 Pretreatment standards for new sources.** As of July 14, 2017, a new source subject to this chapter shall comply with the requirements under s. NR 229.03 and the reporting and recordkeeping requirements under s. NR 229.05.

**NR 229.05 Reporting and recordkeeping requirements.** (1) A dental discharger subject to this chapter shall comply with all of the following reporting requirements in lieu of the otherwise applicable requirements under s. NR 211.15 (1), (3), (4), and (7):

(a) *One-time compliance report deadlines.* For an existing source, a one-time compliance report shall be submitted to the control authority no later than October 12, 2020, or 90 days after a transfer of ownership. For a new source, a one-time compliance report shall be submitted to the control authority no later than 90 days following the introduction of wastewater into a POTW.

(b) *Signature and certification.* The one-time compliance report shall be signed and certified by a responsible corporate officer, a general partner, or proprietor of the dental discharger if the dental discharger is structured as a partnership or sole proprietorship, or an authorized representative in accordance with the requirements under s. NR 211.15 (10) if structured as a corporation.

(c) *Contents.* 1. The one-time compliance report for a dental discharger that does not place or remove dental amalgam as described under s. NR 229.01 (6) shall include all of the following:

a. The facility name, physical address, mailing address, and contact information for the dental discharger.

b. The name of the operator and owner of the dental discharger.

c. A certification statement that the dental discharger does not place dental amalgam and does not remove amalgam except in limited circumstances.

2. The one-time compliance report for a dental discharger that is not exempted from the requirements of this chapter under s. NR 229.01 (6) shall include all of the following:

a. The facility name, physical address, mailing address, and contact information for the dental discharger.

b. The name of the operator and owner of the dental discharger.

c. A description of the operation at the dental facility, including the total number of chairs, the total number of chairs at which dental amalgam may be present in the resulting wastewater, and a description of any existing amalgam separator or equivalent device currently operated to include, at a minimum, the make, model, and year of installation.

d. Certification that the amalgam separator or equivalent device is designed and will be operated and maintained to meet the requirements specified under s. NR 229.03.

e. Certification that the dental discharger is implementing best management practices specified under s. NR 229.03 (2) and will continue to do so.

f. The name of the third-party service provider that maintains the amalgam separator or equivalent device operated at the dental office, if applicable. Otherwise, a brief description of the practices employed by the dental discharger to ensure proper operation and maintenance as specified under s. NR 229.03.

(d) *Transfer of ownership notification.* If a dental discharger transfers ownership of the facility, the new owner shall submit a new one-time compliance report to the control authority no later than 90 days after the transfer.

(e) *Retention period.* As long as a dental discharger subject to this chapter is in operation, or until ownership is transferred, the dental discharger or an agent or representative of the dental discharger shall retain the one-time compliance report required under sub. (1) and make it available for inspection in either physical or electronic form.

(2) A dental discharger or an agent or representative of the dental discharger shall maintain and make available for inspection in either physical or electronic form, for a minimum of 3 years, all of the following:

(a) Documentation of the date, person conducting the inspection, and results of each inspection of the amalgam separator or equivalent device, and a summary of follow-up actions, if needed.

(b) Documentation of amalgam retaining container or equivalent container replacement, including the date, as applicable.

(c) Documentation of all dates that collected dental amalgam is picked up or shipped for proper disposal in accordance with ss. NR 662.014 (1) (e) and (f), and the name of the permitted or licensed treatment, storage, or disposal facility receiving the amalgam retaining containers.

(d) Documentation of any repair or replacement of an amalgam separator or equivalent device, including the date, person making the repair or replacement, and a description of the repair or replacement, including make and model.

(e) The manufacturers operating manual for the current device.

**SECTION 2. EFFECTIVE DATE.** This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

**SECTION 3. BOARD ADOPTION.** This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].