

Report From Agency

Report to
Legislative Council Rules Clearinghouse
NR 211, Wis. Adm. Code
Natural Resources Board Order No. WT-28-10

Wisconsin Statutory Authority

Sections 283.11(1),(2); 283.21(2); 283.31

Federal Authority

40 CFR 403 and 33 USC 1251 et seq.

Comparison to Adjacent States

The following U.S. EPA Region 5 states (Illinois, Indiana, Minnesota and Ohio) have adopted the 2005 changes to the federal pretreatment regulation into their corresponding state regulations. In Michigan, a streamlining rule has been drafted but the authority of the state's environmental agency to adopt such a rule has been removed.

Court Decisions Directly Relevant

There have not been any Wisconsin court decisions directly relevant to the changes proposed for NR 211.

Analysis of the Rule – Rule Effect – Reason for the Rule

On July 18, 2011, the Department received a letter from US EPA identifying seventy-five questions or potential inconsistencies between Wisconsin law and federal Clean Water Act requirements. Issue # 16 of the EPA letter identified inconsistencies concerning requirements for industrial discharges to municipal publicly owned treatment works (POTWs) in Wis. Admin. Code, ch. NR 211, compared with its federal counterpart in chapter 40 of the Code of Federal Regulations, Part 403. The Department is proposing amendments to NR 211 regarding pretreatment requirements for industries discharging to POTWs and for POTWs, in response to issue #16 identified by EPA. The proposed changes more closely align Wisconsin's pretreatment requirements with revisions to the federal pretreatment regulations known as the Pretreatment Streamlining Rule, so named because many of the changes reduced federal pretreatment requirements for both regulated industries and their regulators (DNR or delegated POTWs with pretreatment programs).

Among the changes proposed for NR 211 are the following significant changes:

1. Remove sampling requirements for wastewater pollutants, discharged by industries to sanitary sewers, shown to be neither present nor expected to be present in the discharge.
2. Remove all pretreatment sampling and reporting requirements for industries never discharging more than 100 gallons per day of regulated industrial wastewater to the sanitary sewer.
3. Reduce pretreatment sampling and reporting requirements (from twice per year to once per year) for industries which discharge less than .01 percent of the wastewater flow capacity of the municipal treatment plant they discharge to.
4. Reduce pretreatment inspection requirements (from once per year to once per 2 years) for municipal wastewater treatment plants, with industrial pretreatment programs, when inspecting industries which discharge less than .01 percent of the wastewater flow capacity of the municipal treatment plant they discharge to.
5. Require municipal wastewater treatment plants with industrial pretreatment programs to repeat sampling at industries if a test result from the municipal sample exceeded a limit.
6. Allow municipal wastewater treatment plants with industrial pretreatment programs to use a general discharge permit to regulate several similar industries rather than several individual discharge permits.
7. Require municipal wastewater treatment plants with industrial pretreatment programs to include applicable Best Management Practices and slug control measures in industrial discharge permits.

September 4, 2013

Agency Procedures for Promulgation

The process includes solicitation of written comments from industries and municipalities regarding the proposed changes to NR 211, holding 1 public hearing regarding the proposed changes, final adoption by the Natural Resources Board, Legislative Review and final promulgation.

Description of any Forms (attach copies if available)

The rule does not require submittal of any new forms by industries or municipalities.

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