

Chapter NR 405

PREVENTION OF SIGNIFICANT DETERIORATION

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NR 405.01—Applicability; purpose. (1) APPLICABILITY. The provisions of this chapter apply to the construction of any new major stationary source or any project at an existing major stationary source located in an area designated as attainment or unclassifiable.

(2) PURPOSE. The purpose of this chapter is to establish, pursuant to s. 285.60, Stats., the requirements and procedures for reviewing and issuing air pollution control construction permits to any new major stationary source and any project at an existing major stationary source located in an area designated as attainment or unclassifiable.

Note: Throughout the proposed rule, changes have been made which result in the provisions of this PSD rule differing from 40 CFR 51.166, the federal regulation on which it is based. In this rule, the term “air contaminant” is substituted for the term “pollutant” in the federal regulation and “department” for “the State”, “the Governor” and “reviewing authority”. The federal definition for “building, structure, facility or installation” is applied to the phrase “facility, building, structure, equipment, vehicle or action” — a similar term which appears in Wisconsin’s statutory provisions on air pollution. In addition, cross references in the federal regulation have been changed in the rule to comparable provisions in Wisconsin’s rule (e.g., “40 CFR Parts 60 and 61” has been changed to “chs. NR 440 and 447 to 449 and subch. IV of ch. NR 446”). Eliminated from the rule are provisions of the federal regulations which do not apply to the state’s PSD program (i.e., provisions governing EPA approval of plan revisions).

History: Cr. Register, January, 1987, No. 373, eff. 2-1-87; correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1996, No. 492; CR 03-118: am. (1) and (2), Register June 2007 No. 618, eff. 7-1-07.

NR 405.02—Definitions. The definitions contained in ch. NR 400 apply to the terms used in this chapter. In addition, the following definitions apply to the terms used in this chapter:

(1) “Actual emissions” means the actual rate of emissions of a regulated NSR air contaminant from an emissions unit, as determined in accordance with pars. (a) to (e), except that this definition does not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under s. NR 405.18. Instead, subs. (2m) and (25f) shall apply for those purposes

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the air contaminant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit’s actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) The department may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(c) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(2) “Allowable emissions” means the emissions rate of a stationary source calculated using the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both, and the most stringent of the following:

(a) The applicable standards as set forth in chs. NR 440 and 445 to 449 and under sections 111 and 112 of the Act (42 USC 7411 and 7412).

(b) The applicable emissions limitations, as set forth in chs. NR 400 to 499.

(c) The emissions rate specified as a federally enforceable permit condition.

(2m) “Baseline actual emissions” means the rate of emissions, in tons per year, of a regulated NSR air contaminant, as determined in accordance with pars. (a) to (d).

(a) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the air contaminant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The department shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

1. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns and malfunctions.

2. The average rate shall be adjusted downward to exclude any emissions in excess of an emission limitation that was legally enforceable during the consecutive 24-month period.

3. For a regulated NSR air contaminant, when a project involves multiple emissions units, only one consecutive 24-month period may be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period may be used for each regulated NSR air contaminant.

4. The average rate may not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, or for adjusting this amount if required by subd. 2.

(b) For an existing emissions unit, other than an electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the air contaminant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or, the date a complete

1. Establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at the operating points:

2. Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL regulated air contaminant emissions is a violation of the PAL:

(i) All data used to establish the PAL regulated air contaminant shall be re-validated through performance testing or other scientifically valid means approved by the department. The testing shall occur at least once every 5 years after the issuance of the PAL:

(13) RECORDKEEPING REQUIREMENTS. (a) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of the PAL permit, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of the record:

(b) The PAL permit shall require an owner or operator to retain a copy of the following records, for the duration of the PAL effective period plus 5 years:

1. A copy of the PAL permit application and any applications for revisions to the PAL:

2. Each annual certification of compliance pursuant to s. NR 439.03 (8) and the data relied on in certifying the compliance:

(14) REPORTING AND NOTIFICATION REQUIREMENTS. The owner or operator shall submit the following reports and information to the department:

(a) *Semi-annual report.* The semi-annual report shall be submitted to the department within 30 days of the end of each reporting period. This report shall contain all of the following information:

1. The name of the owner and operator and the permit number.

2. Total annual emissions, in tons/year, based on a 12-month rolling total for each month in the reporting period recorded pursuant to sub. (13) (a).

3. All data relied upon, including any quality assurance or quality control data, in calculating the monthly and annual PAL regulated air contaminant emissions:

4. A list of any emissions units modified or added to the major stationary source during the preceding 6-month period:

5. The number, duration and cause of any deviations or monitoring malfunctions other than the time associated with zero and span calibration checks, and any corrective action taken:

6. A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the air contaminant or the number determined by method included in the permit, as provided by sub. (12) (g):

7. A signed statement by the responsible official certifying the truth, accuracy and completeness of the information provided in the report:

(b) *Deviation report.* A report shall be submitted for any deviation from, or exceedance of, the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to s. NR 439.03 shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits in s. NR 439.03. The reports shall contain all of the following information:

1. The name of the owner and operator and the permit number.

2. The PAL permit requirement that was deviated from or that was exceeded:

3. Emissions resulting from the deviation or the exceedance:

4. A signed statement by the responsible official certifying the truth, accuracy and completeness of the information provided in the report:

(c) *Re-validation results.* The results of any re-validation test or method shall be submitted within 3 months after completion of the test or method:

(15) TRANSITION REQUIREMENTS. The department may not issue a PAL permit that does not comply with the requirements of this section after July 1, 2007:

History: CR 03-118: cr. Register June 2007 No. 618, eff. 7-1-07; CR 07-104: am. (6) Register July 2008 No. 631, eff. 8-1-08.

NR 405.19 Forest County Potawatomi Class I area.

(1) For any new major source or major modification of an existing source, the Forest County Potawatomi Community shall have the opportunity to present to the department, within no more than 75 days of receipt of a complete permit application by the department, a demonstration that the emissions from the proposed new major source or major modification would have an adverse impact on the established air quality related values of the FCPC Class I area.

(2) New major sources or major modifications of existing sources wholly or partially locating or located within a radius of 22.25 miles from the geographic center of the FCPC Class I area, as identified in s. NR 400.02 (66m), are subject to an increment analysis and limited to the maximum allowable increase levels of a Class I area.

(3) New major sources or major modifications of existing sources locating or located wholly outside the area defined in sub. (2) are subject to an increment analysis and maximum allowable increase levels of a Class II area.

Note: The relationship between the State of Wisconsin and the Forest County Potawatomi Community with regard to the FCPC Class I area is established in a 1999 Class I Final Agreement. The geographic center of the FCPC Class I area was determined by finding the center of a rectangle placed around the outer most portions of the Class I area. The 22.25-mile radius was determined by adding 10 miles to the distance of the outermost portion of the FCPC Class I area from the geographic center of the FCPC Class I area. A map developed by the Department and the Forest County Potawatomi Community shows the approximate 22.25-mile radius for the FCPC Class I area. The Final Agreement, map, and information on established air quality related values for the Class I area are available from the Department upon request, or may be found on the Department's web site.

History: CR 10-048: cr. Register November 2010 No. 659, eff. 12-1-10.