

SUBJECT:

Request adoption of Board Order Order AM-05-09, proposed rules affecting chs. NR 406, 407, 409, 419, 439 and 484 pertaining to permit language relating to federal Generally Available Control Technology (GACT) rules for hazardous pollutants, and rule consistency and other changes of a non-substantive nature.

FOR: SEPTEMBER 2009 BOARD MEETING

TO BE PRESENTED BY: Andrew M. Stewart – Chief, Permits & Stationary Source Modeling Section

SUMMARY:

The main purpose of the proposed rule is to amend portions of our rules to incorporate federal rule changes per s. 285.11(16), Stats. This rule pertains to emissions of hazardous air pollutants regulated under Generally Available Control Technology (GACT) Rules. Statutory changes per s. 285.66(3), Stats., allow operation permit renewal applications to be submitted at least 6 months prior to the expiration of their current operation permit. Current rule language requires the submittal to be 12 to 18 months prior to the expiration of the current operation permit. Federal regulations contain a 6 to 18 month time frame for renewal applications to be submitted. This will be noted in our rule.

Biodiesel fuel will be added as an alternative clean fuel, thereby not requiring a permit modification to burn it as a fuel.

The proposal would also amend current rule language to require two copies of permit application materials to be submitted to the Bureau of Air Management. Currently only selected portions of the rules require two copies. This would include requests for exemptions from permitting, and construction permit waiver requests. An additional copy would not be required of asbestos abatement notifications, which also require a review for construction permit exemption purposes. The current tracking database for these notifications eliminates the need for an additional copy.

Other changes are being done for consistency, updating outdated rule language and providing clarification where needed.

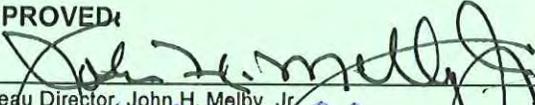
RECOMMENDATION: That the Board adopt Order AM-05-09.

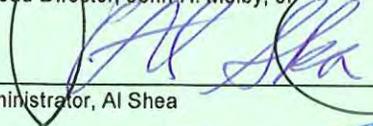
LIST OF ATTACHED MATERIALS:

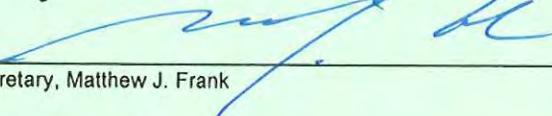
- No Fiscal Estimate Required
- No Environmental Assessment or Impact Statement Required
- No Background Memo

- Yes Attached
- Yes Attached
- Yes Attached

APPROVED:


 Bureau Director, John H. Melby, Jr


 Administrator, Al Shea


 Secretary, Matthew J. Frank

8/11/2009
 Date

8/11/09
 Date

8-25-09
 Date

cc: Laurie Ross - AD/8
Mike Scott- LS/8

Department Rules Coordinator - LS/8
R. Eckdale - AM/7

Joe Brehm- AM/7

DATE: August 10 , 2009

FILE REF: 4530

TO: Natural Resources Board Members

FROM: Matthew J. Frank, Secretary

SUBJECT: Background Memo on Adoption of Order AM-05-09, Proposed Rules Affecting chs. NR 406, 407, 409, 419, 439 and 484, Wis. Adm. Code, Pertaining to Permit Language Relating to Federal Generally Available Control Technology (GACT) Rules for Hazardous Air Pollutants, and Rule Consistency and Other Changes of a Non-substantive Nature

Why is this rule being proposed?

The main purpose of the proposed rule is to amend portions of our rules to incorporate federal rule changes per s. 285.11(16), Stats. This rule pertains to emissions of hazardous air pollutants regulated under Generally Available Control Technology (GACT) Rules. Statutory changes per s. 285.66(3), Stats., allow operation permit renewal applications to be submitted at least 6 months prior to the expiration of their current operation permit. Current rule language requires the submittal to be 12 to 18 months prior to the expiration of the current operation permit.

Additionally, changes are being made for rule consistency, updating of outdated rule language and providing clarification where needed.

Summary of the Rules

The Department proposes revisions to chs. NR 406 and 407 pertaining to sources subject to federal GACT regulations for hazardous air pollutants. The current rules in chs. NR 406 and 407 do not exempt certain source categories from permitting requirements as is done with the federal regulations. Without the exemption some sources subject to GACT may be subject to the Title V permitting program. Known source categories in Wisconsin include bulk gasoline terminals, bulk gasoline plants, gasoline dispensing facilities (gas stations), pipeline facilities, and wood preserving facilities.

Also, current state regulations require that operation permit renewal applications be submitted 12 to 18 months prior to the expiration of the current operation permit. A statutory revision has changed this time frame to at least six months prior to the expiration of the current operation permit. We propose to amend ch. NR 407 accordingly. We will also be adding a note to this section stating that the federal regulation requires the submittal of the operation permit renewal application 6-18 months prior to the expiration of the current operation permit.

A change to add biodiesel fuel to the definition of "clean fuel" in s. NR 406.02(1) is also being proposed. Upon promulgation, facilities will be able to burn biodiesel fuel without first obtaining a permit modification under the construction permit process. They would only need to apply for an operation permit revision under the clean fuel provision found in the current administrative code, without having to go through the construction permit process. There are no fees associated with an operation permit revision and normally a revision takes less time to process.

Additionally, the proposed regulations would amend current rule language to require two copies of permit application materials be submitted to the Bureau of Air Management. Currently only selected portions of the rules require two copies. These would include requests for permit exemptions and construction permit waiver requests. Two copies are required as one is retained by the central office and one copy is sent to the appropriate regional office

The Asbestos Abatement notifications which also require a review for construction permit exemption purposes would not require two copies be submitted. The current tracking database eliminates the need for an additional copy. Also, a new electronic submittal will be available this year.

Other changes are being done for consistency, updating outdated language and providing clarification where needed.

How does this proposal affect existing policy?

The proposed rule changes will not affect existing policy as we are required to amend our rules to reflect federal standards. It has always been Department policy to update and clarify rules when needed.

Hearing Synopsis

On April 16, 2009 the Department conducted a public hearing in Madison on the proposed rule changes. The hearing was conducted by Michael D. Scott of the DNR Legal Services. Joe Brehm of the Bureau of Air Management provided an overview of the proposed rule changes. One person attended the hearing, but no comments were made.

Written comments were received from Alliant Energy suggesting changes regarding the time frame for submittal of operation permit renewal applications. The changes in the operation permit renewal time frame were made based on the current statute. The federal program for the time frame of submitting renewal applications is slightly different than that of the proposed change. A note will be added in the code referencing the federal regulation time frame. The federal regulation uses a 6 to 18 month window for submittal of the operation permit renewal application. The Department may pursue amendments to the statutory language to mirror that of the federal regulations.

Ed Wilusz, representing the Wisconsin Paper Council, also made written comments. His comments were regarding the definition of asbestos and its location in the administrative code, and the revised requirement for adding secondary voltage as a monitoring requirement for electrostatic precipitators (ESP), which control emissions of particulate matter. The location of the definition of asbestos has been moved appropriately, to both chapters NR 406 and 407, Wis. Adm. Code, where the reference to asbestos is first used in the code. The parameter monitoring for ESP secondary voltage is being proposed as an update for ESP monitoring requirements. The current rule was written in about 1995 and additional knowledge has been gained in how to properly assess the operating parameters of an ESP so as to better correlate the monitoring results with the compliance status of the process being controlled.

The Legislative Council Rules Clearinghouse also submitted comments on the proposed rule changes. They made comments on the need for proper statutory citations in the analysis section of the order. Those statutory references have been added. They also recommended changes to the proposed definition of clean fuel if the Department intended that blends of biodiesel and distillate fuels be considered clean fuel. The proposed definition was amended to clarify that blends of biodiesel and distillate oil would be considered a clean fuel. They also made comments on punctuation and grammar that have been addressed.

Information on environmental analysis

Under s. NR 150.03(3), Wis. Adm. Code, an environmental analysis is not needed because this proposal is considered a Type III Action. A Type III Action is one that normally does not have the potential to cause significant environmental effects, normally does not significantly affect energy usage, and normally does not involve unresolved conflicts in the use of available resources.

Final Regulatory Flexibility Analysis

The proposed rule is not expected to have a significant impact on small businesses. However, it will allow some small businesses to become exempt from hazardous air pollutant permitting regulations, as is the case with the federal requirements. This could be a relief of time and monetary investment.

Fiscal Estimate — 2009 Session

<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Updated	LRB Number	Amendment Number if Applicable
<input type="checkbox"/> Corrected	<input type="checkbox"/> Supplemental	Bill Number	Administrative Rule Number Chs. NR 406, 407, 419, 439 & 484

Subject

Proposed rules pertaining to the control of hazardous air pollutants relating to Generally Available Control Technology (GACT), Rule consistency and changes of a non-substantive nature.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- | | |
|----------------------------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation | |

- Increase Costs — May be possible to absorb within agency's budget.
 Yes No
- Decrease Costs

Local: No Local Government Costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Rule Summary:

The main purpose of the proposed rule is to amend portions of our rules to incorporate federal rule changes per s. 285.11(16), Stats. This rule pertains to emissions of hazardous air pollutants regulated under Generally Available Control Technology (GACT) Rules. Statutory changes per s. 285.66(3), Stats., allow operation permit renewal applications to be submitted at least 6 months prior to the expiration of their current operation permit. Current rule language requires the submittal to be 12 to 18 months prior to the expiration of the current operation permit.

Additionally, changes are being made for rule consistency, updating of outdated rule language and providing clarification where needed.

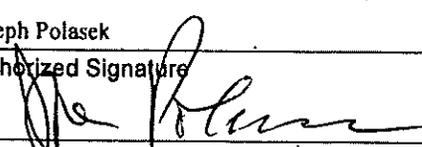
Fiscal Estimate:

It is assumed there will be no direct fiscal effect with these rule changes. The proposed changes are intended to clarify the current rules and update permit requirements for hazardous air pollutants. These changes will result in clarifications and some permit exemptions, but not in substantial dollar savings or expenditures.

Implementation of these rule changes would allow both the private sector and state and local government agencies subject to the proposed regulations, to reduce reporting requirements from semi-annually to annually. Additionally, a fuel switch to include the use of bio-fuels would be considered a permit revision, not a modification. There are no fees associated with a permit revision as there are with a permit modification.

Long-Range Fiscal Implications

NA

Prepared By: Joseph Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 01-11-09

Fiscal Estimate Worksheet — 2009 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number

Subject

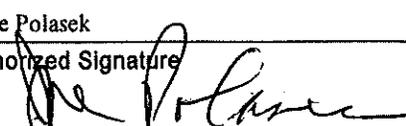
Proposed rules pertaining to the control of hazardous air pollutants relating to Generally Available Control Technology (GACT), Rule consistency and changes of a non-substantive nature.

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 None

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes	\$	\$ -	
(FTE Position Changes)	(FTE)	(- FTE)
State Operations — Other Costs		-	
Local Assistance		-	
Aids to Individuals or Organizations		-	
Total State Costs by Category	\$	\$ -	
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR	\$	\$ -	
FED		-	
PRO/PRS		-	
SEG/SEG-S		-	
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
Total State Revenues		\$	\$ -

Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ _____	\$ _____
Net Change in Revenues	\$ _____	\$ _____

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	01-11-09

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, AMENDING, REPEALING AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board adopts an order to **repeal** NR 406.04(1)(m)9.(Note) and 407.03(1)(sm)9.(Note); to **amend** NR 406.02(1), 406.03(1), 406.04(1f)(b), (1k)(b), (1q)(intro.) and (g), (2)(h) and (4)(a)5., (h)2., (i)3. and (j)3., 407.02(6)(a)3., 407.03(1)(sq), (1m)(a)2., (2)(g) and (4)(intro.), 407.04(1)(intro.) (Note) and (2), 407.05(1) and (Note), (2) and (5) Tables 2 and 3 and (Note), 409.08(1)(c)1., 419.07(3)(intro), 439.055(2)(b)2., 439.07(8)(b)7. and 439.075(3)(a); to **repeal and recreate** NR 419.07(2); and to **create** NR 406.02(7), 406.03(1m), 407.02(6m), 407.04(2)(Note) and 484.10(55v) relating to federal hazardous air pollutant regulations, biodiesel fuel, incorporation of statutory changes, and air permit applications and affecting small business.

AM-05-09

Analysis Prepared by the Department of Natural Resources

1. Statute interpreted: Sections 227.11(2)(a), 285.11(1), Stats. The State Implementation Plan developed under s. 285.11(6), 285.60(6), and 285.67 Stats., is revised.

2. Statutory authority: Sections 227.11(2)(a), 285.11(1) and (16), 285.60(6), and 285.67, Stats.

3. Explanation of Agency Authority:

Section 227.11(2)(a), Stats., gives state agencies general rulemaking authority. Section 285.11(1), Stats., gives the Department authority to promulgate rules consistent with ch. 285, Stats. Section 285.11(6), Stats., gives the Department the authority to develop a state implementation plan for the control of air pollution. Section 285.11(16), Stats., requires the Department to promulgate rules, consistent with but no more restrictive than the federal clean air act, that specify the amounts of emissions that result in a stationary source being classified as a major source. Section 285.60(6) Stats., allows the Department to promulgate rules to exempt types of stationary sources from the requirement to get a construction permit, if the potential emissions from the sources do not present a significant hazard to public health, safety, welfare or to the environment. Section 285.67, Stats., requires the Department to promulgate rules establishing criteria and procedures for revising air pollution control permits.

4. Related statute or rule: Chapters NR 406, 407 and 409 relate directly to the permitting of activities that result in air emissions from stationary sources. Chapter NR 447 regulates asbestos emissions, but since permitting authority also regulates asbestos emissions the definition of asbestos is being added to Chapters NR 406 and 407. Chapter NR 439 relates directly to compliance demonstration for stationary sources.

5. Plain language analysis: The main objective of the proposed rule is to update permit language in chs. NR 406 and 407 regarding federal Generally Available Control Technology (GACT) rules for hazardous air pollutants. The current state rules do not exempt certain source categories from the need to obtain a construction or operation permit as is done on the federal level. Sources in Wisconsin potentially affected by this rule are bulk gasoline terminals, bulk gasoline plants, gasoline dispensing facilities (gas stations), pipeline facilities and wood preserving facilities.

Rules are also proposed that add biodiesel fuel, by definition, as an alternative clean fuel. Currently a

permit modification for existing sources, or a construction permit for new sources, is required in order to burn it.

This proposal would also amend the time frame for submittal of operation permit renewal applications. Current rules require the application be submitted 12-18 months prior to the expiration of the operation permit. The Department proposes to change this deadline to no later than six months prior to the expiration of the operation permit to reflect updated statutory requirements in s. 285.66(3)(a), Stats. The only exception to this is that 40 CFR 70.5(a)(1)(iii) requires submittal to be in a 6-18 month window. Since the statutory change is different than this, a note will be added that refers to the Federal time frame.

Currently only selected portions of our rules require submittal of two copies of permit applications and related materials. The proposed rule would correct this inconsistency so that two copies are required in all cases. Additionally, language will be added to allow for electronic copies. Two copies are required as one is retained by the central office and one copy is sent to the appropriate regional office.

Other non-substantive changes are being proposed for consistency, to update outdated rule language and to provide clarification where needed.

6. Summary of, and comparison with, existing or proposed federal regulation: The changes to chs. NR 406 and 407, Wis. Adm. Code, are consistent with updates to federal rules, as referenced in Section 5. Chapters NR 407 and 409 are being changed as a result of a statutory change on the time frame for the submittal of an operation permit renewal application. The federal time frame for operation permit renewal applications requires that the application be submitted no later than six months prior to the expiration of the current operation permit for those permits that would be issued under 40 CFR part 70.5(a)(1)(iii) which is akin to Chapter NR 407. Other changes, to chs. 406, 407, 419 and 439 provide consistency within the rules by updating outdated language and providing clarification where appropriate. Chapter 484 is being amended to add an American Society of Testing and Materials (ASTM) method for the testing of bio-diesel fuels

7. Comparison with similar rules in adjacent states (Illinois, Iowa, Michigan and Minnesota): All of the adjacent states manage an air construction and operation permit program.

The federal rules are effective nation-wide and the rules being proposed by the Department are similar to the federal rules except as mentioned in 6., above. Therefore, the portions of the proposed rules dealing with the GACT standard should be similar or identical to rules in effect in adjacent states that have similar programs.

8. Summary of factual data and analytical methodologies used and how any related findings support the regulatory approach chosen: Since the Department is proposing rules consistent with federal regulations, except for 6. above, and making consistency and clarification changes, the Department did not, with one exception, make use of any factual data or analytical methodologies in the rule development. That exception is the proposed amendment to ch. NR 484.

The only exception is the adding of biodiesel as a clean fuel. Based on emission information developed by EPA in "A Comprehensive Analysis of Biodiesel Impacts on Exhaust Emissions" (October 2002, <http://www.epa.gov/OMS/models/biodsl.htm>), emissions from the burning of biodiesel are less than those of distillate fuels, except for Nitrogen Oxides (NO_x). NO_x emissions are approximately 10% higher for a 20% blend of biodiesel and distillate fuels. Normally, biodiesel is not burned independently from other

fuel types. By blending the fuels, existing burner design and fuel feed systems do not need to be altered. Emissions of hydrocarbons were reduced by 21.1%, particulate matter 10.1% and carbon monoxide 11.0%. Carbon dioxide emissions remained approximately the same. Biodiesel blended with distillate oil will be considered a clean fuel.

9. Analysis and supporting documents used to determine the effect on small business or in preparation of an economic impact report: An analysis of the effect of the proposed rules on small business was not performed since most of the changes are identical requirements that are already in effect at a federal level, and the Department is required by statute to adopt federal regulations or to develop similar standards. Preparation of an economic impact report has not been requested. Those proposed changes not based on federal regulations, were clarifying in nature or updates to old or outdated language in the rules.

10. Effect on small business: Because the proposed GACT rule changes for permitting sources of hazardous air pollutants may result in a limited number of sources becoming subject to federal operation permit requirements, some small businesses may be required to report their compliance status semi-annually instead of annually.

The proposed rule is not expected to have a significant economic impact on small businesses nor have a significant economic effect on any entity.

11. Agency contact person: Joseph Brehm, telephone 608/267-7541, e-mail; Joseph.Brehm@wisconsin.gov

The consent of the Attorney General will be requested for the incorporation by reference of a new test method in ch. NR 484.

SECTION 1. NR 406.02(1) is amended to read:

NR 406.02(1) "Clean fuel" means distillate oil, as defined in s. NR 440.205(2)(h), with a sulfur content less than 0.05% by weight, natural gas or propane, biodiesel fuel, as determined using the procedures in ASTM D6751-09, incorporated by reference in s. NR 484.10(55v), or any blend of distillate oil and biodiesel fuel.

SECTION 2. NR 406.02(7) is created to read:

NR 406.02(7) "Regulated asbestos-containing material" has the meaning given in s. NR 447.02(33).

SECTION 3. NR 406.03(1) is amended to read:

NR 406.03(1) PERMIT REQUIREMENT. Except as provided in sub. (2), no person may commence construction, reconstruction, replacement, relocation or modification of a stationary source unless the person has a construction permit for the source or unless the source is exempt from the requirement to obtain a permit under s. 285.60(5), Stats., or under this chapter. ~~Applications for the construction permit shall be submitted on forms which are available from the department at its Madison headquarters and regional offices.~~

SECTION 4. NR 406.03(1m) is created to read:

NR 406.03(1m) APPLICATION AND FORMS. (a) Applications for construction permits shall be made on forms supplied by the department for these purposes and supplemented with other materials as indicated on the forms. The forms may be supplied by the department in an electronic format, such as on a computer disk, or on line, if so requested by the applicant.

Note: Application forms may be obtained from Department Regional Headquarters or Service Center offices, or from the Wisconsin Department of Natural Resources, Bureau of Air Management, PO Box 7921, Madison WI 53707-7921, Attention: Construction permits. The internet web address is: <http://dnr.wi.gov/air/permits.html>.

(b) Application materials, including construction permit waiver requests, may be submitted on paper or in an electronic format. The applicant shall submit 2 copies of all forms and other required materials, as indicated on the forms, which are submitted on paper. The applicant shall submit one copy of all forms and other required materials, as indicated on the forms, which are submitted in an electronic format. These materials shall be submitted to the Wisconsin Department of Natural Resources, Bureau of Air Management, PO Box 7921, Madison WI 53707-7921, Attention: Construction permits.

SECTION 5. NR 406.04(1)(m)9.(Note) is repealed.

SECTION 6. NR 406.04(1f)(b), (1k)(b), (1q)(intro.) and (g), (2)(h) and (4)(a)5., (h)2., (i)3. and (j)3. are

amended to read:

NR 406.04(1f)(b) The modification does not trigger a requirement under section 111 or 112 of the Act (42 USC 7411 or 7412), excluding section 112(d)(5) or (r) (42 USC 7412(d)(5) or (r)).

(1k)(b). The modification does not trigger a requirement under section 111 or 112 of the Act (42 USC 7411 or 7412), excluding section 112(d)(5) or (r) (42 USC 7412(d)(5) or (r)).

(1q) SOURCES EXEMPT BASED ON CONTROLLED ACTUAL EMISSIONS. (intro.) Any No construction permit is required for any emissions unit constructed, modified, replaced, relocated or reconstructed at a stationary source where all of the following criteria and requirements are met:

(g) Any newly constructed emissions unit is not subject to an emission limitation under section 111 or 112 of the Act (42 USC 7411 or 7412). Any modified, replaced, relocated or reconstructed emissions unit does not trigger any new emission limitation or other requirement for the emissions unit under section 111 or 112 of the Act (42 USC 7411 or 7412), excluding section 112(d)(5) or (r) (42 USC 7412(d)(5) or (r)).

(2)(h) The source is not subject to any standard or regulation under section 111 or 112 of the Act (42 USC 7411 or 7412), excluding section 112(d)(5) or (r) (42 USC 7412(d)(5) or (r)). ~~If a source is subject to regulations or requirements under section 112 only because of section 112(r) of the Act (42 USC 7412(r)), the source is not for that reason required to obtain a construction permit under this paragraph.~~

(4)(a)5. The use will not subject the source to any standard or regulation under section 112 of the Act (42 USC 7412), excluding section 112(d)(5) or (r) (42 USC 7412(d)(5) or (r)).

(h)2. The change does not trigger a requirement under section 111 or 112 of the Act (42 USC 7411 or 7412), excluding section 112(d)(5) or (r) (42 USC 7412(d)(5) or (r)).

(i)3. The change does not trigger a requirement under section 111 or 112 of the Act (42 USC 7411 or 7412), excluding section 112(d)(5) or (r) (42 USC 7412(d)(5) or (r)).

(j)3. The change does not trigger a requirement under section 111 or 112 of the Act (42 USC 7411

or 7412), excluding section 112(d)(5) or (r) (42 USC 7412(d)(5) or (r)).

SECTION 7. NR 407.02(6)(a)3. is amended to read:

NR 407.02(6)(a)3. Any source subject to a standard or other requirement under section 112 of the ~~act~~ Act (42 USC 7412), except for a source subject solely to regulations or requirements under section 112(d)(5) or (r) of the ~~act~~ Act (42 USC 7412 (d)(5) or (r)).

SECTION 8. NR 407.02(6m) is created to read:

NR 407.02(6m) "Regulated asbestos-containing material" has the meaning given in s. NR 447.02(33).

SECTION 9. NR 407.03(1)(sm)9.(Note) is repealed.

SECTION 10. NR 407.03(1)(sq), (1m)(a)2., (2)(g) and (4)(intro.) are amended to read:

NR 407.03(1)(sq) Renovation or demolition operations involving ~~friable asbestos-containing~~ regulated asbestos-containing material.

(1m)(a)2. The facility is not subject to a standard under section 111 or 112 or the Act (42 USC 7411 or 7412) except for a source subject solely to regulations or requirements under section 112(d)(5) or (r) of the Act (42 USC 7412 (d)(5) or (r)).

(2)(g) The source is not subject to any standard or regulation under section 112 of the ~~act~~ Act (42 USC 7412), excluding section 112(d)(5) or (r) (42 USC 7412(d)(5) or (r)).

(4) CONDITIONS FOR SPECIFIC EXEMPTIONS. (intro.) In order to be eligible for a specific exemption under sub. (1) (ce), (cm), (d), (g), (gm), (h), (o), (s), (w) or (x), the owner or operator of a direct stationary source shall keep and maintain the records required under pars. (a) to (f), as applicable. The

records shall be kept in a manner that allows the source to accurately calculate the required information on a monthly basis. The owner or operator of a direct stationary source shall begin keeping the records required under pars. (b) to (f) no later than January 1, 1994, and the records required under par. (a) no later than January 1, 1998, or the date that the source commences operation, whichever is later, and maintain them for a minimum of 5 years. After January 1, 1994, any direct stationary source that ever exceeds any level listed in sub. (1) (d), (g), (h), (o), (s), (sm), (w) or (x) is not eligible for the exemption under that subsection. After January 1, 1998, any direct stationary source that ever exceeds any level listed in sub. (1) (ce) or (cm) is not eligible for the exemption under that subsection. After ~~January 1, 2001~~ February 1, 2001, any direct stationary source that ever exceeds any level listed in sub. (1)(gm) is not eligible for the exemption under that subsection. The records required are as follows:

SECTION 11. NR 407.04(1)(intro.)(Note) and (2) are amended to read:

NR 407.04(1)(intro.)(Note) Application forms may be obtained from the ~~regional and area~~ Department Regional Headquarter or Service Center offices ~~of the department~~ or from the Wisconsin Department of Natural Resources, Bureau of Air Management, PO Box 7921, Madison WI 53707-7921, Attention: operation permits.

(2) PERMIT RENEWAL. Pursuant to s. 285.66(3), Stats., a permittee shall apply for renewal of an operation permit at least ~~12 months, but not more than 18 months,~~ 6 months before the permit expires. No permittee may continue operation of a source after the operation permit expires, unless the permittee submits a timely and complete application for renewal of the permit.

SECTION 12. NR 407.04(2)(Note) is created to read:

NR 407.04(2)(Note) **Note:** Under 40 CFR 70.5(a)(1)(iii), the renewal application must be submitted at least 6 months, but not more than 18 months before the permit expires.

SECTION 13. NR 407.05(1) including the (Note) and (2) are amended to read:

NR 407.05(1) Applications for operation permits and renewals of operation permits shall be made on forms supplied by the department for these purposes and supplemented with other materials as required indicated on the forms. The forms may be supplied by the department in an electronic format, such as on a computer disk, or on line, if so requested by the applicant.

(Note) Application forms may be obtained from the ~~regional and area~~ Department Regional Headquarters or Service Center offices of the department or from the Wisconsin Department of Natural Resources, Bureau of Air Management, PO Box 7921, Madison WI 53707-7921, Attention: operation permits. The internet web address is: <http://dnr.wi.gov/air/permits.html>.

(2) Application materials may be submitted on paper or in an electronic format. The applicant shall ~~file~~ submit 2 copies of all forms and other required materials, as indicated on the forms, which are submitted on paper. The applicant shall submit one copy of all forms and other required materials, as indicated on the forms, which are submitted in an electronic format. These materials shall be submitted to the Wisconsin Department of Natural Resources, Bureau of Air Management, PO Box 7921, Madison WI 53707-7921, Attention: Operation permits.

SECTION 14. In Table 2 of NR 407.05(5), the Air Contaminant Name shown as 3,3-Dichlorobenzidine is amended to read 3,3'-Dichlorobenzidine

SECTION 15. NR 407.05(5) Table 2, Footnote 8 and Table 3, Footnote 8 are amended to read:

NR 407.05(5) Table 2, Footnote 8

Glycol ethers include mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol, R-(OCH₂CH₂)_n-OR'

where: n = 1, 2 or 3

R = alkyl C7 or less

or R = phenyl or alkyl substituted phenyl

R' = H; or alkyl C7 or less, or OR' consists of carboxylic acid ester, sulfate, phosphate, nitrate or sulfonate.

Table 3, Footnote 8

Glycol ethers include mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol, $R-(OCH_2CH_2)_n-OR'$

where: $n = 1, 2$ or 3

R = alkyl C7 or less

or R = phenyl or alkyl substituted phenyl

R' = H; or alkyl C7 or less, or OR' consists of carboxylic acid ester, sulfate, phosphate, nitrate or sulfonate.

SECTION 16. NR 407.05(5)(Note) is amended to read:

NR 407.05(5)(Note) These forms may be obtained from the ~~regional and area~~ Department Regional Headquarter or Service Center offices ~~of the department~~ or from the Wisconsin Department of Natural Resources, Bureau of Air Management, PO Box 7921, Madison WI 53707-7921, Attention: operation permits, or U.S. EPA, Region 5, 77 W Jackson Blvd, Chicago IL 60604.

SECTION 17. NR 409.08(1)(c)1. is amended to read:

NR 409.08(1)(c) *Duty to reapply*. 1. The designated representative shall submit a complete acid rain portion of an operation permit application for each source with an affected unit at least ~~12~~ 6 months; ~~but not more than 18 months~~, before the permit expires.

SECTION 18. NR 419.07(2) is repealed and recreated to read:

NR 419.07(2) GENERAL REQUIREMENTS. Except as provided in sub. (3), no person may use any procedure to remediate or dispose of soil or water contaminated with organic compounds unless the remediation project meets all of the following conditions:

(a) The project meets the emission limits in sub. (4) and the requirements of sub. (5).

(b) The project will not cause emissions in such quantity, concentration, or duration as to be injurious to human health.

(c) The project will not cause emissions in quantities which will substantially contribute to the exceedance of an ambient air quality standard or ambient air increment or cause air pollution.

SECTION 19. NR 419.07(3)(intro.) is amended to read:

NR 419.07(3)(intro.) EXEMPTIONS. Any procedure or activity listed in this subsection is exempt from the ~~requirement for submittal of a remediation notification form under sub. (2) and is exempt from~~ the emission limits specified in sub. (4), except those contained in ch. NR 445:

SECTION 20. NR 439.055(2)(b)2. is amended to read:

NR 439.055(2)(b)2. Current and secondary current in electrostatic precipitators.

SECTION 21. NR 439.07(8)(b)7. is amended to read:

NR 439.07(8)(b)7. ~~The~~ Except for sources subject to emission testing requirements in ch. NR 440, ~~the~~ department may require the owner or operator of a source, ~~with the exception of sources subject to the requirements of ch. NR 440,~~ capable of emitting condensible particulate matter, to include an analysis of the back half of the stack sampling train catch in the total particulate catch for any emission test using Method 5, 5A, 5B, 5D, 5E, 5F, 5G, 5H, 5I, or 17, in 40 CFR part 60, Appendix A, incorporated by reference in s. NR 484.04(13). This procedure and analysis shall be performed using Method 202 in 40

CFR part 51, Appendix M, incorporated by reference in s. NR 484.04(9).

SECTION 22. NR 439.075(3)(a) is amended to read:

NR 439.075(3)(a) The owner or operator of a direct stationary source which has received a construction permit shall perform the compliance emission tests required under sub. (2)(a) during the initial operating period authorized by the permit.

SECTION 23. NR 484.10(55v) is created to read:

NR 484.10

Standard Number	Standard Title	Incorporated by Reference For
(55v) ASTM D6751-09	Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels	NR 406.02(1)

SECTION 24. CAPITALIZATION CHANGES. Wherever the term "act" appears in the following sections to mean the federal Clean Air Act, the term "Act" is substituted:

NR 407.02(4)(a), (b)27., (c)(intro.), 1. and 2. and (6)(a)2. and (b)3.

NR 407.03(1)(g), (gm), (h), (o), (sm)(intro.) and (2)(e) and (f)

NR 407.05(4)(e), (h)5. and (i)4.

NR 407.07(3)(c)3.

NR 407.09(1)(a)2., (2)(d)1., (3), (4)(a)3.e. and (5)(b)1. and 4.

NR 407.12(1)(d)2.

SECTION 25. EFFECTIVE DATE. This rule shall take 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 26. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin
Natural Resources Board on _____.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Matthew J. Frank, Secretary

(SEAL)