

**FOR DISCUSSION PURPOSES ONLY**

This material is for discussion purposes only and does not represent any decision or position on the topic being presented.

**Title V Air Permit Petitions – March 24, 2010 Public Meeting**

**Adequacy of Compliance Demonstration in Title V Operation Permits**

In the last few years, the Department has received a number of public comments or been the subject of petitions that involved the issue of compliance demonstration adequacy of Title V operation permits. Does the existing Title V language adequately ensure that the facility will be in compliance with the relevant emission limitations or requirements over the applicable time period? The following specific issues have been raised in a comments or petitions:

**1. Parametric monitoring parameters may not be present in the permit.** Historically, the Department has been inconsistent on the placement of parametric monitoring parameters (PMP) in the permit. These parameters may or may not have appeared in the permit, or they may have been placed in an off-permit document, such as a Malfunction and Abatement Plan. Sometimes the parametric monitoring ranges will include language allowing the facility to use alternate ranges with the approval of the Department.

Option	WDNR	Public	Facility
PMP in permit	Pros: Easier compliance review Cons: Permitting workload issue Enforceability issues Flexibility is limited	Pros: Clear compliance requirements Transparent	Pros: Clear compliance requirements Cons: Extra workload Flexibility is limited Legal implications (limits set in stone)
Establish PMP off-permit	Pros: Easier to change Cons: Potential compliance review issue (what's the limit?) Enforceability issue NR 407 implications	Cons: Potential confusion on current PMP Transparency issues	Pros: Flexibility Cons: Potential confusion on current PMP
PMP included on a case-by-case basis	Pros: Department has discretion (e.g., Minors vs. majors) Cons: Consistency issue NR 407 implications	Cons: Potential confusion on current PMP Transparency issues	Cons: Potential confusion on current PMP Consistency issues
PMP in permit with alternate range language	Pros: Most flexible of all options Provide the Department with discretion Cons: Potential compliance review issue Ambiguous enforceability NR 407 implications	Cons: Potential confusion on current PMP Transparency issues Enforceability issues	Pros: Most flexible of all options Cons: Potential confusion on current PMP Enforceability issues

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**2. Parametric monitoring parameters may or may not be related to manufacturer’s recommended operating ranges and/or initial or frequency-based compliance testing. Also, the preliminary determination may not justify the correlation between parametric monitoring parameters and compliance testing.** Typically, many parametric monitoring parameters are based on manufacturer’s recommendations, historic operating data, and/or historic compliance testing. However, this linkage may not have been fully developed when established or explained in a later operation permit preliminary determination. These ranges may have been carried through to the operation permit renewal rather than reset to ranges based on actual monitoring data or on compliance testing. Parametric ranges are not typically changed based on new compliance testing if the current range is still considered adequate and the need for an alternative range is not solicited.

<b>Option</b>	<b>WDNR</b>	<b>Public</b>	<b>Facility</b>
Continue with current practice	Pros: Most flexible of options At the Department’s discretion Cons: Unclear of where requirements came from many iterations later	Cons: Transparency issue Unclear of where requirements came from	Cons: Unclear of where requirements came from many iterations later
Justification of PMP ranges	Pros: Clear justification Provides a starting point for establishing adequate and meaningful PMPs Cons: Initial workload issues Who justifies, facility or Dept.? Who draws the line on level of justification?	Pros: Justification provided and available during permit review Provides a starting point for establishing/explaining PMPs	Pros: Facility is shielded after DNR approval Clear justification Cons: Initial workload or cost issues Who justifies, facility or Dept.? Who draws the line on level of justification?

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**3. The parametric monitoring frequency used to monitor compliance does not match the time period of the applicable requirement or assure ongoing compliance with the applicable limit.** Often when a control device is used to achieve compliance and parametric monitoring parameters are used to monitor compliance, the minimum monitoring and recordkeeping requirements in s. NR 439.055(2), Wis. Adm. Code, are specified. The minimum monitoring recordkeeping frequency for baghouses, ESPs, scrubber and other mechanical collectors is typically once every 8 hours of operation or once per day, whichever yields the greater number of measurements. COMS, CEMS, or other “continuous” monitoring technologies are required when specified by rule or as determined on a case-by-case basis by the Department. Section NR 439.055(5), Wis. Adm. Code, allows the Department to increase the number and/or frequency of the parameters monitored in the operation permit if the Department determines that these changes are necessary to ensure the source does not exceed an applicable emission limit. The current permitting practice is to carry all parametric monitoring frequency specified by a construction permit or previously issued operation permit into the operation permit renewal without change.

For non-exempt sources, the Compliance Assurance Monitoring (CAM) rule under 40 CFR part 64 requires at least 4 data points equally spaced over each hour for pollutant specific emission units (PSEU) with emissions greater than major source thresholds after control, although the permitting authority may approve a reduced data collection frequency with cause. PSEUs emitting at less than major source thresholds after control are required to collect data at least once per 24-hour period of operation, although the permitting authority may require more frequent data collection.

It should be noted that there is no requirement in the Clean Air Act or chapters NR 400-499 of the Wisconsin Administrative Code that requires the parametric monitoring frequency to match the time period of the applicable limit as long as there is a reasonable assurance of compliance when the emission unit operates within the indicator range(s) or designated condition(s).

Option	WDNR	Public	Facility
Continued Use of ch. NR 439 and improve justification in PD for monitoring frequency	Pros: Flexible Cons: Consistency issues Permitting workload issue Who justifies, facility or Dept.? Who draws the line on level of justification?	Cons: Consistency issues Transparency issues	Pros: Flexible Cons: Consistency issues Initial workload or cost issues Who justifies, facility or Dept.? Who draws the line on level of justification?
Revise ch. NR 439 (add more stringent frequency requirements, more stringent monitoring requirements, etc.)	Pros: May improve consistency Cons: Department Workload Issue Reduce Flexibility for Minor/Major	Pros: Increase Trust Can provide input	Cons: Potential Increased Workload Reduce Flexibility for Minor/Major
Require CEMs for everyone	Pros: Insures continuous compliance	Pros: Increases trust that facility is in continuous compliance	Cons: Major cost/workload issues
Use CAM Cutoff instead of NR 439	Pros:	Cons:	Pros:

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	Improved consistency Cons: Reduces control / flexibility for minor emissions units	Reduces compliance assurance for minor emissions units	Improved consistency Less work for minor emissions units
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**4. Averaging periods as a component of the permitted emissions limits.** Some regulatory limits established in code do not specify an averaging period over which to determine compliance, such as the particulate matter emission limits for combustion sources under s. NR 415.06, Wis. Adm. Code, or the particulate matter emission limits set by modeling to maintain compliance with ch. NR 404, Wis. Adm. Code. The Department’s position for limits without averaging periods is that compliance with these limits is instantaneous. Permittees have suggested that all emission limits should have an averaging period to account for process variability, either because the compliance test methods are typically based on the average of 3 test runs over a given period or because of EPA memorandums related to this topic.

<b>Option</b>	<b>WDNR</b>	<b>Public</b>	<b>Facility</b>
Maintain instantaneous limit position	Pros: No Department workload issue	Pros: Transparency	Pros: No transition issues Cons: No flexibility Compliance issues
Revise the code to include averaging period language for limits, as applicable	Pros: Consistency Cons: Department workload issue Transition issues	Pros: Consistency	Pros: Consistency Provides clarification Cons: Transition issues
Base averaging period of limits on test method averaging period, as applicable	Pros: Consistency Cons: Test method run time variability Department workload issue? Could increase short-term emissions	Pros: Consistency Could increase short-term emissions	Pros: Consistency