



WISCONSIN DEPARTMENT OF NATURAL RESOURCES NOTICE OF FINAL GUIDANCE & CERTIFICATION

Pursuant to ch. 227, Wis. Stats., the Wisconsin Department of Natural Resources has finalized and hereby certifies the following guidance document.

DOCUMENT ID

AM-19-0034

DOCUMENT TITLE

Approving Emission Limit Exceptions

PROGRAM/BUREAU

Air Management

STATUTORY AUTHORITY OR LEGAL CITATION

Chapter NR 436, Wisconsin Administrative Code

DATE SENT TO LEGISLATIVE REFERENCE BUREAU (FOR PUBLIC COMMENTS)

October 14, 2019

DATE FINALIZED

November 11, 2019

No comments were received during the comment period 14OCT2019 to 04NOV2019

DNR CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

A handwritten signature in blue ink that reads "Paul E. Good".

November 6, 2019

Signature

Date

DNR GUIDANCE DISCLAIMER

This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

CORRESPONDENCE/MEMORANDUM

DATE: January 8, 2018

TO: Permit Writers, Compliance Inspectors and Regional Supervisors

FROM: Maria Hill, Chief, Compliance, Enforcement & Emission Inventory Section
Michelle Farley, Air Management Engineer *MAH*

SUBJECT: Approving Emission Limit Exceptions under s. NR 436.03(2), Wis. Adm. Code

Purpose:

Section NR 436.03(1), Wis. Adm. Code, requires that no person cause, allow or permit emissions in excess of the limits set in Chapters NR 400 to 499, Wis. Adm. Code. However, NR 436.03(2) allows for exceptions to those emission limits in certain circumstances. The purpose of this memo is to clarify the circumstances under which exceptions to emission limits may be approved on a case-by-case basis, to clarify the procedures under which those approvals can be made and to promote statewide consistency on approving those exceptions.

The circumstances by which a "person" may cause, allow or permit emissions in excess of the limits set in chs. NR 400 to 499 are as follows:

- (a) When an approved program or plan with a time schedule for correction has been undertaken and correction is being pursued with diligence;
- (b) When emissions in excess of the limits are temporary and due to scheduled maintenance, startup or shutdown of operations carried out in accord with a plan and schedule approved by the department; or
- (c) When emergency or reserve equipment is needed for meeting high peak loads, testing equipment or other uses approved by the department. Such equipment must be specified in writing as emergency or reserve equipment. Upon startup of this equipment, notification must be given to the department, and the department may or may not give approval for continued equipment use.

It is important to note that exception can only be applied for an emission limit established under chs. NR 400-499, Wis. Adm. Code. Exception CANNOT be applied in several circumstances. These include for limits in Administrative Orders or Consent Decrees that do not clearly cite authority from chs. NR 400-499, NSPS or NESHAP limits. Note that secondary limits may be established for startup, shutdown, and malfunction periods through chs. NR 405 and NR 408 permitting, and that NSPS and NESHAP rules may have their own provisions for these events.

The procedures for approving exceptions by staff are as follows:

- I. Receive a written request signed by the responsible official. The request must state the circumstances in NR 436.03(2)(a), (b) and/or (c) for which approval is being sought.
2. Upload an electronic copy of the request to WARP and enter key event 4115, "NR 436 exception requested".
3. Reference the two guidance memos: GID:1661.vl and GID:1596.vl.
4. Evaluate in collaboration with the Regional Supervisor and assigned Air Attorney in the Bureau of Legal Services regarding whether the request should be approved or denied.
5. Draft a written response and route electronically to the Compliance & Emissions Inventory Section Chief, copying the Regional Supervisor and Air Attorney. The Section Chief will sign and route an electronic copy of the response back to the staff assignee and mail the original letter to the facility.
6. Upload an electronic copy of the response to WARP, and enter the appropriate key event 4120, "NR 436 exception approved" or 4125, "NR 436 exception denied".