

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: July 9, 2015

TO: Air Management Permit and Compliance Staff

FROM: Kristin Hart and Bill Baumann – AM/7

SUBJECT: Malfunction Prevention and Abatement Plan (MPAP) Applicability

Purpose

The requirement for affected facilities to prepare a Malfunction Prevention and Abatement Plan (MPAP) has been in s. NR 439.11, Wis. Admin. Code since 1986. This code provision is part of the air program's EPA approved state implementation plan (SIP) and reflects Clean Air Act requirements. Questions periodically arise from both external and internal parties regarding applicability of the MPAP requirement. The purpose of this memo is to provide guidance and clarity on what circumstances require preparation of a MPAP, and to subsequently promote statewide consistency on implementing the existing administrative code requirements.

MPAP Applicability

The preparation of a MPAP is required under NR 439.11, for any direct or portable source that is an "air contaminant source" emitting one or more air pollutants (contaminants) meeting either of the following criteria:

- May emit hazardous substances, or
- Emits more than 15 pounds in any day or 3 pounds in any hour of any air contaminant for which emission limits have been adopted.

The criteria above apply on a process line basis:

- A MPAP must be prepared for any process meeting either of the two criteria above.
- A source is not required to prepare an MPAP for processes that do not meet at least one of the criteria above.
- A facility-wide MPAP is not required unless all the processes at a facility meet at least one of the above criteria.
- Whether a process includes control equipment is not a factor in determining applicability of the MPAP requirement.

It should be noted that NR 439 requires preparation of MPAPs, but provides discretion to the department regarding submittal by the source, and review and approval by the department of MPAPs ("the department may order..."). See s. NR 439.11(1) & (2). Permit language should not require routine submittal of MPAPs. Compliance staff should verify that sources prepare and update MPAPs as required under NR 439.11(1) as part of full compliance evaluations or inspections. Submittal of an MPAP for department review and approval should be required when update of the MPAP is part of the resolution of a letter of noncompliance (LON) or Notice of Violation (NOV).

Implementation Considerations

Permit template language for both construction and operation permits will be reviewed to assure consistency with NR 439 requirements, and revised as necessary. Any revised permit language will be incorporated into operation permits as the permits are renewed.



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-19-0079

DOCUMENT TITLE

Malfunction Plan and Abatement Plan Applicability

PROGRAM/BUREAU

Air Management

STATUTORY AUTHORITY OR LEGAL CITATION

Section 285.17, Wisconsin Statutes; Chapter NR 439, Wisconsin Administrative Code

DATE SENT TO LEGISLATIVE REFERENCE BUREAU (FOR PUBLIC COMMENTS)

December 16, 2019

DATE FINALIZED

February 3, 2020

No comments were received during the comment period 16DEC2019 to 06JAN2020

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.

January 10, 2020

Signature

Date