

DATE: July 1, 2020

TO: Permits and Stationary Source Modeling Section
Compliance, Enforcement and Emissions Inventory Section

FROM: Kristin Hart, Chief Permits and Stationary Source Modeling Section

SUBJECT: “Insignificant Emissions Units” (aka Emissions units, operations and activities exempt from inclusion in operation permit applications)

INTRODUCTION

What is an insignificant emissions unit?

40 CFR § 70.5(c) allows approved state operation permit programs to include a “list of insignificant activities and emissions levels which need not be included in permit applications.” Wisconsin’s operation permit program has a list of such activities and emission levels, which are found in ss. NR 407.05(4)(c)9. and 10., Wis. Adm. Code. In some cases, an individual emissions unit, operation or activity can be considered insignificant. In other cases, an individual emissions unit or an entire facility can be considered an insignificant source of a specific air contaminant.

IMPORTANT NOTE: “Insignificant” emissions units are ONLY exempted from being further included in an operation permit *application*. **No other exemptions apply specifically to the units, operations and activities identified by s. NR 407.05(4)(c)9. and 10., Wis. Adm. Code.** The units, operations and activities identified in s. NR 407.05(4)(c)9. and 10., Wis. Adm. Code, are subject to all applicable emission limitations and other requirements, including construction permitting requirements. Additionally, emissions from insignificant emissions units, operations and activities must be included when determining source status and when setting synthetic minor restrictions on a facility’s potential to emit (PTE).

OPERATION PERMITS

What are the operation permit application requirements for insignificant emissions units and insignificant air contaminants?

The concept of insignificant emissions units and air contaminants only has explicit meaning in the context of what information is required to be included in an operation permit *application*. Section NR 407.05(4)(c)9., Wis. Adm. Code, indicates that the identified emissions units, operations and activities “shall be listed in the application but are exempt from being further included in any application required under [chapter NR 407].” Section NR 407.05(4)(c)10., Wis. Adm. Code, indicates “the applicant does not need to include information on an air contaminant if the maximum theoretical emissions of the air contaminant are less than” the inclusion level in Table 3 of s. NR 407.05, Wis. Adm. Code.

Because insignificant emissions units, operations and activities must only be listed in an operation permit application, and because an applicant is not required to include information regarding insignificant air contaminants, the applicant must determine whether units, operations or activities meet the requirements in ss. NR 407.05(4)(c)9. and 10., Wis. Adm. Code, at the time the application is prepared and submitted. Nothing precludes an applicant from including additional information on insignificant emissions units in their operation permit application if they choose to do so.

How are insignificant emissions units and air contaminants addressed in operation permits?

The department's practice is to list the emissions units, operations and activities identified in s. NR 407.05(4)(c)9., Wis. Adm. Code, in the preamble of each operation permit, unless a specific unit is subject to detailed emission limitations, standards or other requirements. Because operation permits are required to contain all applicable requirements as that term is defined in s. NR 400.02(26), Wis. Adm. Code, if a unit identified in s. NR 407.05(4)(c)9., Wis. Adm. Code, is subject to detailed emission limitations, standards or other requirements, the unit and applicable requirements must be included in Part I of the permit. For example, emergency generators are often insignificant units based on their maximum theoretical emissions (MTE), but they are frequently subject to detailed New Source Performance Standards (NSPS) and/or National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements for reciprocating internal combustion engines (RICE). When this is the case, the emergency generator and its specific requirements should be included in Part I of the permit.

PROCESSING APPLICATIONS:

Can the department request additional information about insignificant emissions units when reviewing an operation permit application?

Yes. The department may ask for additional information about insignificant emissions units, activities and operations when reviewing an operation permit application if the information is needed to determine applicable requirements (such as NESHAP requirements for an emergency RICE or elected synthetic minor emission limits) or determine the facility's status under Part 70, PSD and/or NAA permitting. Section NR 407.05(4)(c)7., Wis. Adm. Code, requires the permit application to include "(other information necessary to determine any applicable requirement." Additionally, s. NR 407.06(2), Wis. Adm. Code, gives the department general authority to request "other information than that requested on the application forms, as needed to process the application." Because ss. NR 407.05(4)(c)9. and 10. explicitly exempt insignificant units from being included in the application, the department should have a specific reason to ask for the additional information.

Are emissions from insignificant emissions units, operations and activities included when determining source status and setting synthetic minor limits?

Yes. All emissions from a facility must be included when determining source status and setting synthetic minor limits, including all emissions from insignificant emissions units, operations and activities.

To do this, it may be necessary to estimate MTE from some insignificant operations and activities and include the estimates in the facility total PTE. For example, a conservative estimate of the MTEs from the activities listed in s. NR 407.05(4)(c)9.c. through j. and l. through o., Wis. Adm. Code, could be made in tons per year for each pollutant. When setting synthetic minor limits, the conservative estimate of MTEs from the insignificant activities should be subtracted from the limit. Synthetic minor limits should not be set right at the major source thresholds but should be set below the thresholds to account for emissions from insignificant activities. For example, a synthetic minor limit for Part 70 might be set at 95 tons per year to allow a buffer for a conservative estimate of MTEs from insignificant activities.

In some cases, cumulative emissions from insignificant units might be substantial enough to warrant calculating emissions for the insignificant units and including them in the facility's PTE. For example, individual space heaters with a heat input rating of less than 5 mmBtu per hour are each considered insignificant units. However, a facility might operate many of these small space heaters such that cumulative emissions are substantial, and emissions should be calculated and included in the facility total PTE.

DETERMINING WHICH UNITS, OPERATIONS AND ACTIVITIES ARE “INSIGNIFICANT”

What types of emissions units, operations and activities are “insignificant?”

Emissions units, operations and activities can be considered insignificant by *either* being specifically listed as one of the categories of insignificant operations *or* can be insignificant based on the MTE of the unit. It is not necessary for a unit, operation or activity to meet both criteria to be considered insignificant.

Sections NR 407.05(4)(c)9 and 10, Wis. Adm. Code, identify specific types of operations and activities that are considered insignificant units and emissions units, operations and activities and air contaminants that are considered insignificant based on their MTE.

Specific types of emissions units, operations and activities that are insignificant

Specific types of emissions units, operations and activities considered insignificant are listed in s. NR 407.05(4)(c)9.c. through o., Wis. Adm. Code. The specific types of emissions unit, operations and activities are:

- c.** Maintenance of grounds, equipment and buildings (including lawn care, pest control, grinding, cutting, welding, painting, woodworking, general repairs and cleaning, but not including use of organic compounds as clean-up solvents)
- d.** Boiler, turbine, generator, heating and air conditioning maintenance
- e.** Pollution control equipment maintenance
- f.** Internal combustion engines used for warehousing and material transport, forklifts and courier vehicles, front end loaders, graders and trucks, carts and maintenance trucks
- g.** Fire control equipment
- h.** Janitorial activities
- i.** Office activities
- j.** Convenience water heating
- k.** Convenience space heating units with heat input capacity of less than 5 million Btu per hour that burn gaseous fuels, liquid fuels or wood
- L.** Fuel oil storage tanks with a capacity of 10,000 gallons or less
- m.** Stockpiled contaminated soils
- n.** Demineralization and oxygen scavenging of water for boilers
- o.** Purging of natural gas lines

Some items listed are operations and activities that may be conducted at a facility (e.g., pollution control equipment maintenance). Operations and activities listed are considered insignificant whenever performed, regardless of frequency.

There are also some emissions units included on the list such as:

- Convenience space heating units with heat input capacity of less than 5 million Btu per hour that burn gaseous fuels, liquid fuels or wood
- Fuel oil storage tanks with a capacity of 10,000 gallons or less

For these units, each individual space heating unit with a capacity of less than 5 million Btu per hour burning gaseous, liquid fuels or wood is an insignificant emissions unit, and each individual fuel oil

storage tank with a capacity of 10,000 gallons or less is an insignificant emissions unit. The capacities of these units are not totaled when determining if a space heater or a storage tank is insignificant under this section.

Multiple emissions units, operations and activities that perform identical or similar functions are only combined in determining the applicability of the exemption when s. NR 407.05(4)(c)9., Wis. Adm. Code, explicitly indicates they are to be combined. For example, s. NR 407.05(4)(c)9.a., Wis. Adm. Code, (any emissions unit, operation, or activity that has, for each air contaminant, maximum theoretical emissions that are less than the level specified in Table 3) explicitly indicates units performing identical or similar functions should be combined. In contrast, s. NR 407.05(4)(c)9.k. and L., Wis. Adm. Code, do not indicate units performing identical or similar functions should be combined.

Emissions units, operations and activities that are insignificant based on MTE

There are four ways of determining insignificance based on MTE which are outlined in ss. NR 407.05(4)(c)9.a. and b. and NR 407.05(4)(c)10., Wis. Adm. Code. Individual emissions units can be insignificant, individual emissions units can be insignificant sources of facility-wide emissions of air contaminants, individual emissions units can be insignificant sources of specific air contaminants, and facilities can be insignificant sources of specific air contaminants.

1. *Determining if individual emissions units, operations or activities are insignificant:*

An individual emissions unit, operation or activity can be insignificant as described in s. NR 407.05(4)(c)9.a., Wis. Adm. Code, as follows:

- Any emissions unit, operation, or activity that has, for each air contaminant, maximum theoretical emissions that are less than the level specified in Table 3.
- Multiple emissions units, operations, and activities that perform identical or similar functions shall be combined in determining the applicability of this exemption.

When determining insignificance using this method, calculate the MTE from the unit for each air contaminant. Compare the MTE for each air contaminant to the corresponding inclusion level in Table 3 to s. NR 407.05, Wis. Adm. Code. If the MTE for all air contaminants emitted from the unit are less than the corresponding Table 3 inclusion levels, then the emissions unit is insignificant.

NOTE: If there are multiple emissions units, operations and activities that perform identical or similar functions at a facility, then the MTE from all the units with similar functions must be added together when comparing the MTE to the Table 3 inclusion levels.

2. *Determining if a unit is insignificant based on facility total MTE:*

A specific unit can be insignificant based on facility total emissions as described in s. NR 407.05(4)(c)9.b., Wis. Adm. Code, as follows:

If the maximum theoretical emissions of any air contaminants listed in Table 3 from all emission units, operations, or activities at a facility are less than 5 times the level specified in Table 3 for those air contaminants, any emissions unit, operation, or activity that emits only those air contaminants.

When determining insignificance using this method, calculate the MTE from every unit at the facility for each air contaminant. Compare the facility total MTE for each air contaminant to five times the corresponding inclusion level in Table 3 to s. NR 407.05, Wis. Adm. Code. If the facility total MTE for any specific air contaminant are less than five times the corresponding Table 3 inclusion levels, then any emissions unit that emits only those air contaminants is insignificant.

3. *Determining if a unit is an insignificant source of a specific air contaminant:*

An emissions unit, operation or activity can be an insignificant source of specific air contaminants as described in s. NR 407.05(4)(c)10., Wis. Adm. Code, as follows:

For any emissions unit, operation, or activity that is included in the application, the applicant does not need to include information on any air contaminant if the maximum theoretical emissions of the air contaminant are less than the level for that air contaminant listed in Table 3. Multiple emissions units, operations, and activities that perform identical or similar functions shall be combined in determining the applicability of this exemption.

When determining insignificance using this method, calculate the MTE from the unit for each air contaminant. Compare the MTE for each air contaminant to the corresponding inclusion level in Table 3 to s. NR 407.05, Wis. Adm. Code. If there is any specific air contaminant with MTE less than the corresponding Table 3 inclusion level, then the emissions unit is an insignificant source of that contaminant.

NOTE: If there are multiple emissions units, operations and activities that perform identical or similar functions at a facility, then the MTE from all the units with similar functions must be added together when comparing the MTE to the Table 3 inclusion levels.

4. *Determining if a facility is an insignificant source of a specific air contaminant:*

A facility can be an insignificant source of specific air contaminants as described in s. NR 407.05(4)(c)10., Wis. Adm. Code, as follows:

For any emissions unit, operation, or activity that is included in the application, the applicant does not need to include information on any air contaminant if the maximum theoretical emissions of any air contaminant listed in Table 3 from all emission units, operations, or activities at a facility are less than 5 times the level specified in Table 3 for that air contaminant. Multiple emissions units, operations, and activities that perform identical or similar functions shall be combined in determining the applicability of this exemption.

When determining insignificance using this method, calculate the MTE from every unit at the facility for each air contaminant. Compare the facility total MTE for each air contaminant to five times the corresponding inclusion level in Table 3 to s. NR 407.05, Wis. Adm. Code. If the facility total MTE for any specific air contaminant are less than five times the corresponding Table 3 inclusion level, then the facility is an insignificant source of that air contaminant.

NOTE: If there are multiple emissions units, operations and activities that perform identical or similar functions at a facility, then the MTE from all the units with similar functions must be added together when comparing the MTE to the Table 3 inclusion levels.



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-20-0085-C

DOCUMENT TITLE

“Insignificant Emissions Units” (aka Emissions Units, Operations and Activities Exempt from Inclusion in Operation Permit Applications)

PROGRAM/BUREAU

Air Management

STATUTORY AUTHORITY OR LEGAL CITATION

ss. NR 407.05(4)(c)9. and 10., Wis. Adm. Code

DATE SENT TO LEGISLATIVE REFERENCE BUREAU (FOR PUBLIC COMMENTS)

May 11, 2020

DATE FINALIZED

July 13, 2020

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".

July 8, 2020

Signature

Date

PUBLIC COMMENT SUMMARY

Comments were received via email during the period 11MAY2020 to 01JUNE2020 from:

Scott Manley, Executive Vice President of Government Relations, Wisconsin Manufacturers & Commerce
Scott Suder, President, Wisconsin Paper Council

Additional comments were received via email on 10JUNE2020 from:

Bill Skewes, Executive Director, Wisconsin Utilities Association

DNR reached out to the commenters by phone and was able to speak directly with two of the three. The comments requested that the department not include information regarding emission reporting required under ch. NR 438, Wis. Adm. Code in this guidance document regarding insignificant emissions units under s. NR 407.05(4)(c), Wis. Adm. Code. In addition, comments were received on readability and format which have also been considered. The full text of the comments is attached.

AIR PROGRAM RESPONSE

Annual emission reporting requirements are contained in chapter NR 438, Wis. Adm. Code. The department's intention was to reference the rules governing reporting requirements and not create additional reporting requirements for the emissions units, operations and activities identified in s. NR 407.05(4)(c)9. and 10., Wis. Adm. Code. To avoid confusion, the department has removed the EMISSION REPORTING section on page 3 of the draft guidance from the final guidance. The final guidance focuses only on requirements for emissions units, operations and activities identified in s. NR 407.05(4)(c)9. and 10., Wis. Adm. Code as they pertain to operation permit application content. As discussed in the guidance, s. NR 407.05(4)(c)9. and 10., Wis. Adm. Code does not exempt any of the identified emissions units, operations or activities from any applicable requirements.



June 10, 2020

Ms. Mary Oleson
Wisconsin Department of Natural Resources (WDNR)
La Crosse Service Center
3550 Mormon Coulee Road
La Crosse, WI 54601-6768

Subject: Comments from the Wisconsin Utilities Association on the WDNR's Draft Guidance, titled: "Insignificant Emissions Units" (aka Emissions Units, Operations and Activities Exempt from Inclusion in Operation Permit Applications) – AM-20-0085-D

Dear Ms. Oleson,

The Wisconsin Utilities Association (WUA), a 501(c)6 non-profit organization that represents the investor-owned gas and electric utilities before the Wisconsin Legislature and regulatory bodies, and Dairyland Power Cooperative (DPC), respectfully submit the following comments on the WDNR's May 11, 2020 draft guidance regarding insignificant emission units (IEUs). WUA appreciates the efforts of the WDNR to reauthorize the IEU guidance as it relates to the operating permit program and solicit public feedback.

The inclusion in the draft guidance document related to reporting air emissions from IEUs, while it seems to be intended to add clarity, will likely have the opposite effect and should be subject to further stakeholder discussion and procedural analysis. The inclusion of this paragraph in a document focused primarily on operation permitting has the potential to be lost in the discussion and incorrectly placed. Since it is a divergence from the way IEUs are treated in operation permits, it warrants its own guidance, if not rulemaking as discussed below, with the clarifications also noted. The WDNR explored the IEU topic in 2017 as it pertained to construction permits, and perhaps the discussion should be reviewed and reinitiated as it applies to the air emissions inventory.¹ Given the potential significant impact of this change on the regulated community and deviation from past practice, WUA asks the WDNR to not finalize this portion of the guidance and to instead undertake rulemaking to clarify the exemption of emissions from IEUs from ch. NR 438, Wis. Adm. Code, reporting.

The WDNR bases this new policy approach on a brief discussion in the draft guidance document noting that nothing exempts IEUs from annual emissions inventory reporting requirements in accordance with ch. NR 438, Wis. Adm. Code. By default, the draft guidance indicates that emissions resulting from any of the following activities should be tracked, quantified and reported by all facilities in the state every year because the guidance has identified them as IEUs:

¹ <https://dnr.wi.gov/topic/AirQuality/documents/AMSG/Notes20170413.pdf>

- Maintenance of grounds, equipment and buildings, including lawn care, pest control, grinding, cutting, welding, painting, woodworking, general repairs and cleaning, but not including use of organic compounds as clean-up solvents.
- Boiler, turbine, generator, heating and air conditioning maintenance.
- Pollution control equipment maintenance.
- Internal combustion engines used for warehousing and material transport, forklifts and courier vehicles, front end loaders, graders and trucks, carts and maintenance trucks.
- Fire control equipment.
- Janitorial activities.
- Office activities.
- Convenience water heating.
- Convenience space heating units with heat input capacity of less than 5 million Btu per hour that burn gaseous fuels, liquid fuels or wood.
- Fuel oil storage tanks with a capacity of 10,000 gallons or less.
- Stockpiled contaminated soils.
- Demineralization and oxygen scavenging of water for boilers.
- Purging of natural gas lines.
- Any other type of IEU located at a facility.

The proposed approach significantly deviates from the past practices of the WDNR related to IEUs. It has the potential to create a significant amount of work for all facilities throughout the state, not just utilities, as well as the WDNR, for emission sources which have very low actual emissions and minimal environmental impact. In addition to tracking and quantifying emissions, facilities will need to track, and WDNR would need to verify, stack (if any) and operating characteristics, such as hours operated per day and throughput, to report annually to the WDNR. As such, WUA respectfully requests that the WDNR commence a rulemaking to harmonize the requirements of ch. NR 438, Wis. Adm. Code, with the explicit exemption related to emissions from sources listed in s. NR 407.05(4)(c)9. and 10., Wis. Adm. Code, (i.e., IEUs) and sources identified in a facility's operation permit as IEUs.

By its own terms, s. NR 407.05(4)(c)10., Wis. Adm. Code, excludes any requirement to provide information for any air contaminant from an insignificant unit within operation permit applications. This exemption is explicitly authorized by Wis. Stat. § 299.15(2)(b), which states that the Department may by rule set minimum reporting levels for emissions. The approach to report emissions from IEUs also appears to be inconsistent with neighboring states, including Minnesota, Illinois, Indiana and Ohio, which appear to exempt IEUs from reporting annual emissions.² In addition, the approach to report emissions from IEUs would be inconsistent with the understanding WUA's members have regarding the inclusion of IEUs for air emissions inventory purposes, historically, consistent with s. NR 407.05(4)(c)10, Wis. Adm. Code. Finally, it is not clear that the Department's own air emissions reporting

² <https://www.pca.state.mn.us/air/frequently-asked-questions>
<https://www2.illinois.gov/epa/topics/air-quality/planning-reporting/erms/Pages/faqs.aspx>
<http://iac.iga.in.gov/iac/T03260/A00020.PDF>
<https://epa.ohio.gov/dapc/aqmp/eiu/eis#126167087-which-emissions-units-do-not-need-to-be-reported-in-the-eis-report>

system is setup with an effective mechanism to report emissions and other typical annual reporting information from IEUs.

We encourage the WDNR to engage the regulated community, potentially through the Air Management Study Group, to develop a reasonable and workable approach for all facilities throughout the state if the WDNR chooses to require the emissions from IEUs be reported annually under ch. NR 438, Wis. Adm. Code.

Thank you for your consideration of these comments. We are happy to discuss the issues discussed in these comments further. Please feel free to contact me at 608-257-3151 or bskewes@wisconsinutilities.com if you have any questions or would like any additional information.

Sincerely,

Bill Skewes

Bill Skewes
Executive Director
Wisconsin Utilities Association (WUA)



COMMENTS: INSIGNIFICANT EMISSIONS SOURCES AM 20-0085-D

WPC and our colleagues appreciate the opportunity to comment on the proposed guidance on Insignificant Emissions Units (aka Emissions Units, Operations and Activities Exempt from Inclusion in Operation Permit Applications). The papermaking industry is key economic driver for Wisconsin employing over 35,000 highly skilled men and women whose efforts continue to make us the number one papermaking state in the United States. The Wisconsin Paper Council is the premier trade association which advocates for our entire industry, an industry which is focused on sustainability and strong environmental stewardship. WPC advocates for common-sense regulation that balances a healthy environment with a healthy economy.

WPC is respectfully submitting the following comments on the proposed guidance.

Introduction

- The 'insignificant source' term is not explained or contained within NR 400, NR 406 or NR 407. The synonymous language in regulations termed exempt sources and exclusions are used interchangeably and poses confusion. A clearer explanation on the relationship of different terms and helpful steps in determining whether a source is insignificant unit based on the various considerations would be beneficial.
- It is an understanding that Title V Operation Permits, 'exemptions from operation permit requirements, NR 407.03(1), insignificant activities require an operation permit revision application submit prior to their installation, which is not mentioned in this guidance. Whereby, such exemptions do not require a construction permit the operating permit revision forms are expected.
- The narration at the end of guidance, Items 1 – 4, would be more beneficial at start of guidance for base knowledge and then follow on with questions.

Operation Permits

- Sources subject to NR 405 NSR PSD construction air permitting must include necessary demonstration of insignificant sources within construction air permit applications for PSD threshold inclusion and to align with operation permit consideration as insignificant source listing on future operation permit. This is not mentioned within guidance for comprehensive awareness.
- Emergency generator NSPS RICE conditions all require recordkeeping compared to statement that units are frequently subject to detailed NSPS. It is our understanding emergency generators frequently do not trigger a construction permit application, however, the operation permit revision application to incorporate into Title V Operation Permits (OP) is expected is not mentioned. Also, the manner units are incorporated into the Title V Operation Permits do not preclude MACT RICE units >500HP from EPA & DNR initial notification requirements or other regulatory applicability. Mention of this is mindful advisement to facilities. It would be helpful if DNR had reference templates for optional use on initial notifications, i.e. emergency generators, like Michigan EGLE does to educate facilities.

Processing Applications

- NR 407.05(4)(c)9 item k on "Convenience space heating units with heat input capacity of less than 5 million Btu per hour that burn gaseous fuels, liquid or wood" is listed by NR Code as 'exempt' from being further included in any application required under NR 407. However, the next paragraph speaks on individual units each considered insignificant and units cumulative included as PTE which is a

process within a Title V Operation Permit which is confusing and seems contradicting to Code language. Additionally, to change applicable totaled heating capacity (i.e. mmBtu change) across units, DNR compliance staff require a permit revision application to operation permit, this is not mentioned for knowledge and awareness.

Determining Which Units, Operations and Activities are 'Insignificant'

- The narration within this guidance states the categories of insignificant operations when in NR Code these are termed as 'exempt operations' interchanging poses confusion of terms on what is insignificant unit, a category exempt or exclusion.
- On Page 4, the statement on "capacities of these units are not totaled when determining if a space heater or storage tank is insignificant under this section" and that "in contrast, s.NR 407.04(4)(c)9k. and l., Wis Adm Code, do not indicate units performing identical or similar functions should be combined" which signifies individual space heating units less than 5 mmBtu are insignificant and not to be aggregated per NR Code. However, air operating permit processes with numerous space heating units, less than 5 mmBtu units, still appear as legacy processes in an air operating permits seems contradiction of guidance.

Changes in title for 'Emissions units, operations and activities that are ~~insignificant~~ exempt based on MTE, are considered insignificant' is an example that could better align terms in Code with language within guidance. For Items 1 -4, providing an example calculation(s) for demonstration on MTE and comparison to Table 3 chemical level and being below inclusion level could provide useful guidance for this topic. Especially an example on like multiple emission units, operations and activities that are identical and need to be added together compared to like units, operations and activities that are identical and need not be added together.



To: Mary Oleson, Wisconsin DNR
From: Scott Manley, Executive Vice President of Government Relations
Date: June 1, 2020
Re: AM-20-0085-D, Insignificant Emission Units Guidance

Wisconsin Manufacturers & Commerce (WMC) writes to express a concern with AM-20-0085-D, a proposed guidance document related to the treatment of insignificant emission units (IEU) under the DNR's air management program. We respectfully ask that you consider revising the guidance document consistent with the issue raised below.

WMC is the largest general business association in Wisconsin, representing approximately 3,800 member companies of all sizes, and from every sector of the economy. We are the state chamber of commerce, and the state manufacturers association. Since 1911, our mission has been to make Wisconsin the most competitive state in the nation to do business. Ensuring businesses may operate in a clear, fair, and transparent regulatory environment is an important aspect of fulfilling that mission.

The guidance document states that emissions from IEUs should be reported to the department in annual emission inventory reports. Our concern with this portion of the guidance is twofold. First, as a matter of policy, it is a poor use of time and resources for the regulated community to spend time tracking-down and calculating emissions from IEUs, which by definition, are so insignificant they are exempt from permitting. Doing so will not further any public policy goals or improve air quality. Accordingly, directing DNR staff time to ensure compliance with emission reporting from IEUs would be a waste of finite resources. This section of the guidance document should be removed.

Second, this appears to be a policy change that requires rulemaking. Section 227.10(1) requires that each agency shall promulgate as a rule every "general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute." The Wisconsin Supreme Court recently clarified in *Lamar Central Outdoor v. State of Wisconsin* that agencies must promulgate as rules any new interpretations of laws which change their previous policies. Accordingly, any change in policy to require reporting of emissions from IEUs would require promulgation of a rule. WMC recommends promulgating a rule to clarify that emissions from EIU are not required to be reported to the emission inventory, or alternatively, establishing a reporting exemption below a specified threshold (e.g. 1 ton per year).

Thank you for your consideration of these comments. Please let me know if you have any question, or if I can provide you with additional information.