

2. 'Final alternative emission limitation.' a. Each unit with an approved alternative emission limitation shall comply with the alternative emission limitation specified in the unit's permit beginning on the date specified in the permit as issued or revised by the department to apply the final alternative emission limitation.

b. If the approved interim or final alternative emission limitation applies to a unit for part, but not all, of a calendar year, the unit shall determine compliance for the calendar year in accordance with the procedures in sub. (8)(a).

(7) EMISSIONS AVERAGING. (a) General provisions. In lieu of complying with the applicable emission limitation in sub. (2), (3) or (4), any affected units subject to the emission limitation, under control of the same owner or operator, and having the same designated representative may average their NO<sub>x</sub> emissions under an averaging plan approved under this subsection.

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1. Each affected unit included in an averaging plan for Phase II shall be a boiler subject to an emission limitation in sub. (2), (3) or (4) for all years for which the unit is included in the plan.

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2. Each unit included in an averaging plan shall have an alternative contemporaneous annual emission limitation (pounds per million Btu) and can only be included in one averaging plan.

3. Each unit included in an averaging plan shall have a minimum allowable annual heat input value (million Btu), if it has an alternative contemporaneous annual emission limitation more stringent than that unit's applicable emission limitation under sub. (2), (3) or (4), and a maximum allowable annual heat input value, if it has an alternative contemporaneous annual emission limitation less stringent than that unit's applicable emission limitation under sub. (2), (3) or (4).

4. The Btu-weighted annual average emission rate for the units in an averaging plan shall be less than or equal to the Btu-weighted annual average

emission rate for the same units had they each been operated, during the same period of time, in compliance with the applicable emission limitations in sub. (2), (3) or (4).

5. In order to demonstrate that the proposed plan is consistent with <sup>subd. 4</sup> ~~par. (a)4.~~; the alternative contemporaneous annual emission limitations and annual heat input values assigned to the units in the proposed averaging plan shall meet the following requirement:

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$$\frac{\sum_{i=1}^n (R_{Li} \times HI_i)}{\sum_{i=1}^n HI_i} \leq \frac{\sum_{i=1}^n (R_{Hi} \times HI_i)}{\sum_{i=1}^n HI_i} \quad (\text{Equation 1})$$

where:

$R_{Li}$  is the alternative contemporaneous annual emission limitation for unit  $i$ , in pounds per million Btu, as specified in the averaging plan

$R_{Hi}$  is the applicable emission limitation for unit  $i$ , in pounds per million Btu, as specified in sub. (2), (3) or (4) except that for early election units, which may be included in an averaging plan only on or after January 1, 2000,  $R_{Hi}$  shall equal the most stringent applicable emission limitation under sub. (2) or (4)

$HI_i$  is the annual heat input for unit  $i$ , in million Btu, as specified in the averaging plan

$n$  is the number of units in the averaging plan.

6. For units with an alternative emission limitation,  $R_{Li}$  shall equal the applicable emissions limitation under sub. (2), (3) or (4), not the alternative emissions limitation.

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7. No unit may be included in more than one averaging plan.

(b) Submission requirements. 1. The designated representative of a unit meeting the requirements of pars. (a) ~~and~~ may submit an averaging plan or a revision to an approved averaging plan to the department and any other applicable permitting authorities at any time up to and including January 1, or July 1, if the plan is restricted to only units located within the department's jurisdiction, of the calendar year for which the averaging plan is to become effective. 2

2. The designated representative shall submit a copy of the same averaging plan, or the same revision to an approved averaging plan, to any other permitting authority with jurisdiction over a unit in the plan, and to U.S. EPA.

3. When an averaging plan or a revision to an approved averaging plan is not approved, the owner or operator of each unit in the plan shall operate the unit in compliance with the emission limitation that would apply in the absence of the averaging plan, or revision to a plan.

(c) Contents of NO<sub>x</sub> averaging plan. A complete NO<sub>x</sub> averaging plan shall include the following elements in a format prescribed by the department:

1. Identification of each unit in the plan;
2. Each unit's applicable emission limitation in sub. (2), (3) or (4);
3. The alternative contemporaneous annual emission limitation for each unit (in pounds per million Btu). If any of the units identified in the NO<sub>x</sub> averaging plan utilize a common stack pursuant to 40 CFR 75.17(a)(2)(i)(B), the same alternative contemporaneous emission limitation shall be assigned to each unit and different heat input limits may be assigned;
4. The annual heat input limit for each unit (in million Btu);
5. The calculation for Equation 1 in par. (a)5.;
6. The calendar years for which the plan will be in effect; and

7. The special provisions in par. (d).

1. Except as provided in subd. 2, or 3

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(d) Emission limitations. Each affected unit in an approved averaging plan is in compliance with the acid rain emission limitation for NO<sub>x</sub> under the plan only if <sup>all of</sup> the following requirements are met:

A. For each unit, the unit's actual annual average emission rate for the calendar year, in pounds per million Btu, is less than or equal to its alternative contemporaneous annual emission limitation in the averaging plan;

and

B. For each unit with an alternative contemporaneous emission limitation less stringent than the applicable emission limitation in sub. (2), (3) or (4), the actual annual heat input for the calendar year does not exceed the annual heat input limit in the averaging plan;

C. For each unit with an alternative contemporaneous annual emission limitation more stringent than the applicable emission limitation in sub. (2), (3) or (4), the actual annual heat input for the calendar year is not less than the annual heat input limit in the averaging plan;

2. If one or more of the units does not meet the requirements under subd. 1., the designated representative shall demonstrate, in accordance with

plus subd. 2

subpar. a. (i.e., Equation 2) that the actual Btu-weighted annual average emission rate for the units in the plan is less than or equal to the Btu-weighted annual average rate for the same units had they each been operated, during the same period of time, in compliance with the applicable emission limitations in sub. (2), (3) or (4).

a. A group showing of compliance shall be made based on the following equation:

$$\frac{\sum_{i=1}^n (R_{ai} \times HI_{ai})}{\sum_{i=1}^n HI_{ai}} \leq \frac{\sum_{i=1}^n (R_{li} \times HI_{ai})}{\sum_{i=1}^n HI_{ai}} \quad (\text{Equation 2})$$

where:

$R_{ai}$  is the actual annual average emission rate for unit  $i$ , in pounds per million Btu, as determined using the procedures in 40 CFR part 75. For units in an averaging plan utilizing a common stack pursuant to 40 CFR 75.17(a)(2)(i)(B), use the same  $NO_x$  emission rate value for each unit utilizing the common stack, and calculate this value in accordance with appendix F of 40 CFR part 75

$R_{li}$  is the applicable annual emission limitation for unit  $i$ , in pounds per million Btu, as specified in sub. (2), (3) or (4), except that for early election units, which may be included in an averaging plan only on or after January 1, 2000,  $R_{li}$  shall equal the most stringent applicable emission limitation under sub.(2) or (4)

$HI_{ai}$  is the actual annual heat input for unit  $i$ , in million Btu, as determined using the procedures in 40 CFR part 75

$n$  is the number of units in the averaging plan.

b. For units with an alternative emission limitation,  $R_{li}$  shall equal the applicable emission limitation under sub. (2), (3) or (4), not the alternative emission limitation.

c. If there is a successful group showing of compliance under this subd. 2.a. for a calendar year, then all units in the averaging plan shall be deemed to be in compliance for that year with their alternative contemporaneous emission limitations and annual heat input limits under subd. 1.

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*Separate subd.*

(e) Liability. The owners and operators of a unit governed by an approved averaging plan shall be liable for any violation of the plan or this section at that unit or any other unit in the plan, including liability for fulfilling the obligations specified in 40 CFR part 77 and sections 113 and 411 of the act.

(f) Withdrawal or termination. The designated representative may submit a notification to terminate an approved averaging plan in accordance with s. NR 409.09(1)(d), no later than October 1 of the calendar year for which the plan is to be withdrawn or terminated.

(8) COMPLIANCE AND EXCESS EMISSIONS. Excess emissions of nitrogen oxides under 40 CFR 77.6 shall be calculated as follows:

(a) For a unit that is not in an approved averaging plan:

1. Calculate  $EE_i$  for each portion of the calendar year that the unit is subject to a different  $NO_x$  emission limitation:

$$EE_i = \frac{(R_{ai} - R_{li}) \times HI_i}{2000} \quad (\text{Equation 3})$$

where:

$EE_i$  is the excess emissions for  $NO_x$  for the portion of the calendar year (in tons)

$R_{ai}$  is the actual average emission rate for the unit (in pounds per million Btu), determined according to 40 CFR part 75 for the portion of the calendar year for which the applicable emission limitation  $R_{li}$  is in effect

$R_{li}$  is the applicable emission limitation for the unit (in pounds per million Btu), as specified in sub. (2), (3) or (4) or as determined under sub.

(6)

$HI_i$  is the actual heat input for the unit, (in million Btu), determined according to 40 CFR part 75 for the portion of the calendar year for which the applicable emission limitation,  $R_{li}$ , is in effect.

2. If  $EE_i$  is a negative number for any portion of the calendar year, the EE value for that portion of the calendar year shall be equal to zero (e.g., if  $EE_i = -100$ , then  $EE_i = 0$ ).

3. Sum all  $EE_i$  values for the calendar year:

$$EE = \sum_{i=1}^n EE_i \quad (\text{Equation 4})$$

where:

EE is the excess emissions for  $NO_x$  for the year (in tons)

n is the number of time periods during which a unit is subject to different emission limitations.

(b) For units participating in an approved averaging plan, when all the requirements under sub. (7)(d)1. are not met,

$$EE = \frac{\sum_{i=1}^n (R_{ai} \times HI_i) - \sum_{i=1}^n (R_{li} \times HI_i)}{2000} \quad (\text{Equation 5})$$

where:

EE is the excess emissions for NO<sub>x</sub> for the year (in tons)

R<sub>ai</sub> is the actual annual average emission rate for NO<sub>x</sub> for unit i (in pounds per million Btu), determined according to 40 CFR part 75

R<sub>li</sub> is the applicable emission limitation for unit i (in pounds per million Btu), as specified in sub. (2), (3) or (4)

HI<sub>i</sub> is the actual annual heat input for unit i (in million Btu) determined according to 40 CFR part 75

n is the number of units in the averaging plan.

(9) MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS. (a) Unless otherwise provided, the owners and operators of the source and each affected unit at the source shall keep on site at the source each of the following documents for a period of 5 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 5 years, in writing by the administrator or department.

1. The certificate of representation for the designated representative for the source and each affected unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation, in accordance with 40 CFR 72.24; provided that the certificate and documents shall be retained on site at the source beyond the 5-year period until the documents are superseded because of the submission of a new certificate of representation changing the designated representative.

2. All emissions monitoring information, in accordance with 40 CFR part 75.

3. Copies of all reports, compliance certifications and other submissions and all records made or required under the acid rain program.

4. Copies of all documents used to complete an acid rain portion of an operation permit application and any other submission under the acid rain



program or to demonstrate compliance with the requirements of this chapter and the acid rain program.

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(b) In accordance with sub. (6)(d)4., a petition for an alternative emission limitation demonstration period shall include the following information:

1. Documentation that the owner or operator solicited bids for a NO<sub>x</sub> emission control system designed for application to the specific boiler and designed to achieve the applicable emission limitation in sub.(2), (3) or (4) on an annual average basis. This documentation shall include a copy of all bid specifications.

2. A copy of the performance guarantee submitted by the vendor of the installed NO<sub>x</sub> emission control system to the owner or operator showing that the system was designed to meet the applicable emission limitation in sub.(2), (3) or (4) on an annual average basis.

3. Documentation describing the operational and combustion conditions that are the basis of the performance guarantee.

4. Certification by the primary vendor of the NO<sub>x</sub> emission control system that the equipment and associated auxiliary equipment was properly installed according to the modifications and procedures specified by the vendor.

5. Certification by the designated representative that the owner or owners or operator installed technology that meets the requirements of sub.(6)(a)2.

(c) In accordance with sub. (6)(d)9., a petition for an alternative emission limitation demonstration period shall include the following information:

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1. The operating conditions of the NO<sub>x</sub> emission control system including load range, O<sub>2</sub> range, coal volatile matter range, and, for tangentially fired

boilers, distribution of combustion air within the NO<sub>x</sub> emission control system;

2. Certification by the designated representative that the owner or owners or operator have achieved and are following the operating conditions, boiler modifications, and upgrades that formed the basis for the system design and performance guarantee;

3. Any planned equipment modifications and upgrades for the purpose of achieving the maximum NO<sub>x</sub> reduction performance of the NO<sub>x</sub> emission control system that were not included in the design specifications and performance guarantee, but that were achieved prior to submission of this application and are being followed;

4. A list of any modifications or replacements of equipment that are to be done prior to the completion of the demonstration period for the purpose of reducing emissions of NO<sub>x</sub>; and

5. The parametric testing that will be conducted to determine the reason or reasons for the failure of the unit to achieve the applicable emission limitation and to verify the proper operation of the installed NO<sub>x</sub> emission control system during the demonstration period. The tests shall include tests in s. NR 439.098, which may be modified as follows:

a. The owner or operator of the unit may add tests to those listed in s. NR 439.098, if the additions provide data relevant to the failure of the installed NO<sub>x</sub> emission control system to meet the applicable emissions limitation in sub. (2), (3) or (4); or

b. The owner or operator of the unit may remove tests listed in s. NR 439.098 that are shown, to the satisfaction of the department, not to be relevant to NO<sub>x</sub> emissions from the affected unit; and

c. In the event the performance guarantee or the NO<sub>x</sub> emission control system specifications require additional tests not listed in s. NR 439.098, or specify operating conditions not verified by tests listed in s. NR 439.098,

the owner or operator of the unit shall include the additional tests.

(d) In accordance with sub. (6)(d)10., a petition for an alternative emission limitation demonstration period shall include the following information for the operating period:

*ditto*

1. The average NO<sub>x</sub> emission rate (in pounds per million Btu) of the specific unit;
2. The highest hourly NO<sub>x</sub> emission rate (in pounds per million Btu) of the specific unit;
3. Hourly NO<sub>x</sub> emission rate (in pounds per million Btu), calculated in accordance with 40 CFR part 75;
4. Total heat input (in million Btu) for the unit for each hour of operation, calculated in accordance with the requirements of 40 CFR part 75; and
5. Total integrated hourly gross unit load (in megawatts, gross, electrical).

(e) A petition for an alternative emission limitation shall include the following information in accordance with sub. (6)(e)6.

*ditto*

1. Total heat input (in million Btu) for the unit for each hour of operation, calculated in accordance with the requirements of 40 CFR part 75;
2. Hourly NO<sub>x</sub> emission rate (in pounds per million Btu), calculated in accordance with the requirements of 40 CFR part 75; and
3. Total integrated hourly gross unit load (in megawatts, gross, electrical).

SECTION 19. NR 409.08(1)(a) is amended to read:

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NR 409.08 (1) (a) Duty to apply. 1. The designated representative of

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any source with an affected unit shall submit a complete acid rain portion of an operation permit application by the applicable deadline in pars. (b) and (c), and the owners and operators of the source and any affected unit at the source may not operate the source or unit without a permit or permit application meeting the requirements of sub. (3) that states its acid rain program requirements.

SECTION 20. NR 409.08(1)(a)2. and (b)9. are created to read:

NR 409.08(1)(a)2. The designated representative of any source with an affected unit subject to s. NR 409.065 shall submit, by the applicable deadline under par. (b)9., a complete acid rain portion of an operation permit application or, if the unit is covered by an acid rain portion of an operation permit, a complete permit revision that includes a complete compliance plan for NO<sub>x</sub> emissions covering the unit.

(b)9. For a Phase I or Phase II unit with a Group 1 or Group 2 boiler, the designated representative ~~was~~ required to submit a complete permit application and compliance plan for NO<sub>x</sub> emissions covering the unit in Phase II to the department and U.S. EPA not later than January 1, 1998. note  
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Note: Early election units were required to also submit an application to U.S. EPA not later than January 1, 1997.

SECTION 21. NR 409.08(1)(c) is ~~amended~~ <sup>ren</sup> to read: ②

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 months, but not more than 18 months, before the permit expires.

SECTION 22. NR 409.08(1)(c)2. is created to read:

NR 409.08(1)(c)2. The designated representative of any source with an affected unit subject to s. NR 409.065 shall submit a complete acid rain portion of an operation permit application, including a complete compliance plan for NO<sub>x</sub> emissions covering the unit, in accordance with par. (a)2. and with the deadlines in subd. 1.

SECTION 23. NR 409.08(1)(d) is <sup>ren</sup>amended to read:

NR 409.08(1)(d) Number of copies. 1. The original and 3 copies of all permit applications shall be submitted to the department.

SECTION 24. NR 409.08(1)(d)2. and (e) are created to read:

NR 409.08(1)(d)2. The original and 3 copies of the compliance plan for NO<sub>x</sub> emissions for Phase II shall be submitted to the department, and one copy of the compliance plan for NO<sub>x</sub> emissions submitted to U.S. EPA headquarters, acid rain division.

(e) Multiple applications. Where 2 or more affected units are located at a source, the department may, in its sole discretion, allow the designated representative of the source to submit, under par. (a) or (c), 2 or more acid rain portions of operation permit applications covering the units at the source, provided that each affected unit is covered by one and only one application.

SECTION 25. NR 409.08(1)(d) Note is renumbered NR 409.08(1)(e) Note.

SECTION 26. NR 409.08(2)(b) is amended to read:

NR 409.08(2)(b) Identification of each affected unit, except for an opt-in unit, at the source for which the acid rain portion of the permit application is submitted.

SECTION 27. NR 409.08(2)(f) is created to read:

NR 409.08(2)(f) If the unit is subject to s. NR 409.065:

1. Identification of each affected unit that is at the source and is subject to s. NR 409.065;
2. Identification of the boiler type of each unit;
3. Identification of the compliance option proposed for each unit, i.e., meeting the applicable emissions limitation under s. NR 409.065(2), (3) or (4), s. NR 409.065(5) (early election), s. NR 409.065(6) (alternative emission limitation), or s. NR 409.065(7) (NO<sub>x</sub> emissions averaging), and any additional information required for the appropriate option in accordance with s. NR 409.065; and
4. The compliance certification statements required of the designated representative in accordance with s. NR 409.07(1)(b) and (c).

SECTION 28. NR 409.08(3)(b) and (c) and (4)(a) are amended to read:

NR 409.08(3)(b) Prior to the date on which an acid rain portion of a permit is issued or denied ~~as a final department action subject to judicial review~~, an affected unit governed by and operated in accordance with the terms and requirements of a timely and complete acid rain portion of an operation permit application shall be deemed to be operating in compliance with the acid rain program.

(c) A complete acid rain portion of an operation permit application

shall be binding on the owners and operators and the designated representative of the affected source and the affected units covered by the permit application and shall be enforceable as an acid rain portion of an operation permit from the date of submission of the permit application until the issuance or denial of the acid rain portion of an operation permit ~~as a final department action subject to judicial review covering the units.~~

(4)~~(a)~~ The department shall act in accordance with this chapter and chs. NR 406 and 407 for the purpose of incorporating acid rain program requirements into each affected sources's operation permit or for issuing written exemptions under ss. NR 409.04 and 409.05. To the extent that any requirements of this chapter are inconsistent with the requirements of ch. NR 406 or 407, this chapter shall take precedence and shall govern the issuance, denial, revision, reopening, renewal and appeal of the acid rain portion of an operation permit. For purposes of applying this subsection, the provisions of this chapter and of chs. NR 406 and 407 applicable to acid rain portions of operation permit applications and acid rain portions of operation permits shall also apply to petitions for exemption and proposed and final written exemptions respectively for ~~new or retired units~~ new units, retired units or industrial utility-units to the extent consistent with ss. NR 409.04 ~~and,~~ 409.05 and 409.055.

SECTION 29. NR 409.09(1)(a) is renumbered NR 409.09(1)(a)1.

SECTION 30. NR 409.09(1)(a)2. is created to read:

NR 409.09(1)(a)2. A complete compliance plan for NO<sub>x</sub> shall, for each affected unit included in the permit application and subject to s. NR 409.065, either certify that the unit will comply with the applicable emissions limitation under s. NR 409.065(2), (3) or (4) or specify one or more other acid rain compliance options for NO<sub>x</sub> in accordance with the requirements of s.

NR 409.065.

SECTION 31. NR 409.09(1)(a) Note is repealed.

SECTION 32. NR 409.09(1)(b)(intro.) is amended to read:

NR 409.09(1)(b)(intro.) Multi-unit compliance plan option. The compliance plan may include a multi-unit compliance option under sub. (2) or, for nitrogen oxides, under section 407 of the act (42 USC 7651f) or ~~regulations implementing s. 407 s.~~ NR 409.065.

SECTION 33. NR 409.09(1)(b)(intro.) Note is repealed.

SECTION 34. NR 409.09(1)(c)(intro.) is amended to read:

NR 409.09(1)(c)(intro.) Conditional approval. In the compliance plan, the designated representative of an affected unit may propose, in accordance with this section, any acid rain compliance option for conditional approval; provided that an acid rain compliance option under section 407 of the act (42 USC 7651f) may be conditionally proposed only to the extent provided in ~~regulations implementing section 407 of the act s.~~ NR 409.065.

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SECTION 35. NR 409.09(1)(c)(intro.) Note is repealed.

SECTION 36. NR 409.09(1)(c)1. and (d)1. are amended to read:

NR 409.09(1)(c)1. To activate a conditionally-approved acid rain compliance option, the designated representative shall notify the department in writing that the conditionally-approved compliance option shall actually be



pursued beginning January 1 of a specified year. Notification shall be subject to the limitations on activation under sub. (2) and ~~regulations implementing section 407 of the act (42 USC 7651f)~~ s. NR 409.065. If the conditionally-approved compliance option includes a plan described in par. (b)1., the designated representative of each source governed by the plan shall sign and certify the notification.

(d)1. The designated representative for a unit may terminate an acid rain compliance option by notifying the department in writing that an approved compliance option shall be terminated beginning January 1 of a specified year. Notification shall be subject to the limitations on termination under sub. (2) and ~~regulations implementing section 407 of the act (42 USC 7651f)~~ s. NR 409.065. If the compliance option includes a plan described in par. (b)1., the designated representative for each source governed by the plan shall sign and certify the notification.

SECTION 37. NR 409.09(1)(d)4. Note is repealed.

SECTION 38. NR 409.09(2)(f)1. and 3.(intro.) and (g)1.b. are amended to read:

NR 409.09(2)(f)1. If, at any time before the end of the repowering extension under par. (e)2. b., the designated representative of a unit governed by an approved repowering extension plan submits the notification under s. NR 409.13(2)(d) that the owners and operators have decided to terminate efforts to properly design, construct and test the repowering technology specified in the plan before completion of construction or startup testing, the designated representative may submit to the department a ~~proposed permit revision~~ requested significant permit revision demonstrating that the efforts were in good faith. A copy of the requested significant permit revision shall be submitted to the administrator. If the demonstration is to

the satisfaction of the administrator, the unit may not be deemed in violation of the act because of a termination and the department shall revise the operation permit in accordance with subd. 2.

3.(intro.) The designated representative of a unit governed by an approved repowering extension plan may submit to the department a proposed significant permit revision demonstrating that the repowering technology specified in the plan was properly constructed and tested on the unit but was unable to achieve the emissions reduction ~~limitations~~ requirements specified in the plan and that it is economically or technologically infeasible to modify the technology to achieve the emission limits. A copy of the requested significant permit revision shall be submitted to the administrator.

In order to be properly constructed and tested, the repowering technology shall be constructed at least to the extent necessary for direct testing of multiple combustion emissions, including sulfur dioxide and nitrogen oxides, from the unit while operating the technology at nameplate capacity. If the demonstration is to the satisfaction of the administrator:

(g)1.b. Any existing unit governed by an approved repowering extension plan shall be subject to the acid rain emissions limitations for nitrogen oxides in accordance with section 407 of the act (42 USC 7651f) and ~~regulations implementing section 407 of the act~~ s. NR 409.065 beginning on the date that the unit is removed from operation to install the repowering technology or is permanently removed from service.

SECTION 39. NR 409.09(2)(g)1.b. Note is repealed.

SECTION 40. NR 409.10(2) is amended to read:

NR 409.10(2) PERMIT SHIELD. Each affected unit operated in accordance with the acid rain portion of an operation permit that governs the unit and that was issued in compliance with title IV of the act (42 USC 7651 to 7651o),

as provided in this chapter, 40 CFR parts 72, 73, 74, 75, 76, 77 and 78 and the regulations implementing section 407 of the act (42 USC 7651f), shall be deemed to be operating in compliance with the acid rain program, except as provided in s. NR 409.06(7) (f).

SECTION 41. NR 409.10(2) Note is repealed.

SECTION 42. NR 409.11(1) (a) 2. and 3. and (2) (a) are amended to read:

NR 409.11(1) (a) 2. Not later than January 1, 1999, for each unit subject to an acid rain NO<sub>x</sub> emissions limitation, the department shall reopen the acid rain portion of an operation permit under s. NR 409.12(4) to add any NO<sub>x</sub> early election plan that was approved by the administrator under 40 CFR 76.8 and has not been terminated and reopen the acid rain portion of the permit to add the acid rain program nitrogen oxides requirements; provided that the designated representative of the affected source submitted a timely and complete acid rain portion of an operation permit application for nitrogen oxides in accordance with s. NR 409.07(1). The reopening may not affect the term of the acid rain portion of an operation permit.

3. Each acid rain portion of an operation permit issued in accordance with this chapter shall have a term of 5 years commencing on its effective date, provided that, at the discretion of the department, the first acid rain portion of an operation permit for Phase II may have a term of less than 5 years where necessary to coordinate the term of such permit with the term of an operation permit issued by the department to the source. Each acid rain portion of an operation permit issued in accordance with subd. 1. shall take effect by the later of January 1, 2000 or, where the permit governs a unit under s. NR 409.01(1) (a) 3., the deadline for monitor certification under 40 CFR part 75.

(2) (a) Appeals of the acid rain portion of an operation permit issued by

the department that do not challenge or involve decisions or actions of the administrator under 40 CFR parts 72, 73, 74, 75, 76, 77 and 78 and regulations implementing sections 407 and 410 of the act (42 USC 7651f and 7651i) shall be conducted according to the procedures in ch. NR 407 and ss. 285.13(1), 285.81 and 227.40 to 227.60, Stats. The permit shield under s. NR 409.10(2) shall continue to be in effect during the appeal process. Appeals of the acid rain portion of a permit that challenge or involve decisions or actions of the administrator shall follow the procedures under 40 CFR part 78 and section 307 of the act (42 USC 7607). Decisions or actions include, but are not limited to, allowance allocations, determinations concerning alternative monitoring systems and determinations of whether a technology is a qualifying repowering technology.

SECTION 43. NR 409.11(2)(d) is repealed.

SECTION 44. NR 409.12(1)(a), (c), (d) and (e) are amended to read:

NR 409.12(1)(a) This section governs revisions to the acid rain provisions ~~contained in~~ portion of any operation permit issued by the department under ch. NR 407. Any determination or interpretation by the department or by the state, including a state court, modifying or voiding any provision of the acid rain portion of an operation permit shall be subject to review by the administrator in accordance with 40 CFR 70.8(c) as applied to permit modifications, unless the determination or interpretation is an administrative ~~amendment~~ revision approved in accordance with 40 CFR 72.83 and sub. (4).

(c) The terms of the acid rain portion of the operation permit shall apply while the request for a permit revision is pending, except as provided in sub. (4) for administrative permit revisions.

(d) The standard requirements of the ~~acid rain program in~~ 40 CFR 72.9

may not be modified or voided by a permit revision.

(e) Any request for a permit revision to incorporate a compliance option that was not submitted for approval and comment during the permit issuance process, or involving a change in a compliance option that was previously submitted, shall meet the requirements for applying for that compliance option under subpart D of 40 CFR 72.40 to 72.44 and regulations implementing section 407 of the act (42 USC 7651f) part 72 and 40 CFR parts 74 and 76.

SECTION 45. NR 409.12(1)(g) is created to read:

NR 409.12(1)(g) Any designated representative who fails to submit any relevant information or who has submitted incorrect information in a permit revision shall, upon becoming aware of the failure or incorrect submittal, promptly submit the supplementary information or corrected information to the department.

SECTION 46. NR 409.12(3)(c) and (4)(a)10. are amended to read:

NR 409.12(3)(c) Within ~~30~~ 90 days of the close of the public comment period provided under par. (b), the department shall ~~review~~ consider the request for fast-track revision and the comments received on it and approve, in whole or in part or with changes or conditions as appropriate, or disapprove the request for revision. A fast-track revision shall be subject to the same provisions for review by the administrator and affected states as are applicable to a significant permit revision under sub. (2).

(4)(a)10. The addition of or change in a nitrogen oxides alternative emissions limitation demonstration period, provided that the requirements of ~~section 407 of the act (42 USC 7651f)~~ 40 CFR part 76 are met.

SECTION 47. NR 409.12(4)(a)11. and 12. are renumbered NR 409.12(4)(a)13. and 14., and NR 409.12(4)(a)14., as renumbered, is amended to read:

NR 409.12(4)(a)14. Incorporation of changes that the administrator has determined to be similar to those listed in subs. 1. to ~~10~~12.

SECTION 48. NR 409.12(4)(a)11. and 12. are created to read:

NR 409.12(4)(a)11. The addition of a NO<sub>x</sub> early election plan that was approved by the administrator under 40 CFR 76.8.

12. The addition of an exemption for which the requirements have been met under 40 CFR 72.7 or 72.8 or which was approved by the department under s. NR 409.055.

SECTION 49. NR 409.12(4)(b) is repealed and recreated to read:

NR 409.12(4)(b)1. Requests for administrative revisions shall be processed in accordance with s. NR 407.11(3) and (4). The department shall take final action on a request for the addition of an alternative emissions limitation demonstration period within 90 days of receipt of the requested revision and may take such action without providing prior public notice.

2. The department may, on its own motion, make an administrative permit revision under par. (a)3., 4., 11. or 12. at least 30 days after providing notice to the designated representative of the revision and without providing any other public notice.

SECTION 50. NR 409.12(4)(c) and (d) are created to read:

NR 409.12(4)(c) The department shall designate the permit revision under par. (b) as having been made as an administrative permit revision. The department shall submit the revised portion of the permit to the

administrator.

(d) The provisions for review by the administrator and affected states applicable to a significant permit revision under sub. (2) do not apply to an administrative permit revision.

SECTION 51 . NR 409.12(6)(a)1. is repealed and recreated to read:

NR 409.12(6)(a)1. The department, on its own motion, shall revise an acid rain provision of an operation permit whenever:

a. Any additional requirement under the acid rain program becomes applicable to any affected source governed by the permit;

b. The department determines that the permit contains a material mistake or that an inaccurate statement was made in establishing the emissions standards or other terms or conditions of the permit, unless the mistake or statement is corrected in accordance with sub. (4); or

c. The department determines that the permit must be revised or revoked to assure compliance with acid rain program requirements.

SECTION 52 . NR 409.12(6)(a)2. is amended to read:

NR 409.12(6)(a)2. No later than January 1, 1999, the department shall revise any permits of affected sources to add the acid rain program nitrogen oxides requirements, consistent with 40 CFR part 76, provided that the designated representative of the affected source submits a timely and complete acid rain portion of an operation permit application for nitrogen oxides, in accordance with 40 CFR 72.21. The revision may not affect the duration of the acid rain portion of an operation permit.

SECTION 53. NR 439.098 is created to read:

*of what? (5)*

NR 439.098 METHODS AND PROCEDURES FOR PARAMETRIC TESTING OF NO<sub>x</sub> EMISSIONS PURSUANT TO AN ACID RAIN PROGRAM ALTERNATIVE NO<sub>x</sub> EMISSION LIMITATION. (1) The owner or operator may use the following tests as a basis for the report required by s. NR 409.065(6)(e)7.:

(a) Conduct an ultimate analysis of coal using ASTM D 3176-89, incorporated by reference in s. NR 484.10.

(b) Conduct a proximate analysis of coal using ASTM D 3172-89, incorporated by reference in s. NR 484.10.

(c) Measure the coal mass flow rate to each individual burner using ASME Performance Test Code 4.2 (1991), "Test Code for Coal Pulverizers" or ISO 9931 (1991), "Coal - Sampling of Pulverized Coal Conveyed by Gases in Direct Fired Coal Systems", incorporated by reference in s. NR 484.10.

(2) The owner or operator *dito* may measure and record the actual NO<sub>x</sub> emission rate in accordance with the requirements of s. NR 409.065 while varying the following parameters where possible to determine their effects on the emissions of NO<sub>x</sub> from the affected boiler:

(a) Excess air levels.

(b) Settings of burners or coal and air nozzles, including tilt and yaw, or swirl.

(c) For tangentially fired boilers, distribution of combustion air within the NO<sub>x</sub> emission control system.

(d) Coal mass flow rates to each individual burner.

(e) Coal-to-primary air ratio (based on pound per hour) for each burner, the average coal-to-primary air ratio for all burners, and the deviations of individual burners' coal-to-primary air ratios from the average value.

(f) If the boiler uses varying types of coal, the type of coal. Provide

*The owner or op. shall. (5)*



the results of proximate and ultimate analyses of each type of as-fired coal.

(3) In performing the tests specified in sub. (1), the owner or operator shall begin the tests using the equipment settings for which the NO<sub>x</sub> emission control system was designed to meet the NO<sub>x</sub> emission rate guaranteed by the primary NO<sub>x</sub> emission control system vendor. These results constitute the baseline controlled condition.

(4) After establishing the baseline controlled condition under sub. (3), the owner or operator may:

(a) Change excess air levels + 5% from the baseline controlled condition to determine the effects on emissions of NO<sub>x</sub>, by providing a minimum of 3 readings, (e.g., with a baseline reading of 20% excess air, excess air levels will be changed to 19% and 21%.)

note (2)

(b) For tangentially fired boilers, change the distribution of combustion air within the NO<sub>x</sub> emission control system to determine the effects on NO<sub>x</sub> emissions by providing a minimum of 3 readings, one with the minimum, one with the baseline, and one with the maximum amounts of staged combustion air.

(c) Show that the combustion process within the boiler is optimized, e.g., that the burners are balanced.

SECTION 54. NR 484.10(41m) is created to read:

Standard Number	Standard Title	Incorporated by Reference For
NR 484.10(41m)	Standard Practice for Proximate Analysis of Coal and Coke	NR 439.098(1)(b)
ASTM D3172-89 (1993)		

SECTION 55. NR 484.10(44) is amended to read:

Standard Number	Standard Title	Incorporated by Reference For
NR 484.10(44) ASTM D3176-89 (1993)	Standard Practice for Ultimate Analysis of Coal and Coke	40 CFR part 75 Appendices A and F  NR 439.08(1)(g) NR 439.098(1)(a)

SECTION 56. NR 484.11(1) to (5) are renumbered NR 484.11(2), (3), (4), (5) and (1) and the table numbering is amended to read Table 6B, Table 6C, Table 6D, Table 6E and Table 6A, respectively.

SECTION 57. NR 484.11(6) and (7) are created to read:

NR 484.11(6) The following is a document from the American society of mechanical engineers (ASME).

Note: Copies may purchased for personal use from:

The American Society of Mechanical Engineers

22 Law Drive

Fairfield NJ 07004

TABLE 6F  
ASME DOCUMENT REFERENCE

Document Number	Title	Incorporated by Reference For
PTC 4.2.69 (1997)	Test Code for Coal Pulverizers	NR 439.098(1)(c)

(7) The following is a document from the international organization for standardization (ISO).

Note: Copies may be purchased for personal use from:

American National Standards Institute

11 West 42nd Street

13th floor

New York NY 10036

TABLE 6G

ISO DOCUMENT REFERENCE

Document Number	Title	Incorporated by Reference For
ISO 9931 (1991)	Coal - Sampling of Pulverized Coal Conveyed by Gases in Direct Fired Coal Systems	NR 439.098(1)(c)

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

The rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
George E. Meyer, Secretary

(SEAL)