

Report to
Legislative Council Rules Clearinghouse
NR 428 and 484, Wis. Adm. Code
Natural Resources Board Order No. AM-17-05

Wisconsin Statutory Authority

ss. 227.11(2)(a) and 285.11(1) and (6), Stats., interpreting s. 285.11(6), Stats.

Federal Authority

40 CFR parts 50 and 75

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

In June 2004, the US EPA designated the Wisconsin counties addressed by the rule as "moderate" nonattainment areas for the 8-hour ozone ambient air quality standard. The designation triggered federal Clean Air Act requirements for implementation of "reasonably available control technology" (RACT) for major stationary sources of NO_x and volatile organic compounds (VOC) by May 1, 2009. The Department is proposing this rule package to meet the RACT requirement for major sources of NO_x emissions. The Department previously adopted RACT rules for VOC sources to address the previous 1-hour ozone standard.

The proposed rule affects facilities with the potential to emit 100 tons or more of NO_x per year in the moderate ozone nonattainment areas. However, the emission requirements apply to individual emission units, such as a boiler or furnace, at the affected facilities. It is possible that an emission unit contributing to a major source's potential to emit may not be subject to a RACT requirement. Likewise, an emission unit identified by a RACT source category, but at a facility with a potential to emit less than 100 tons per year, will not be subject to a RACT requirement.

The emission requirements proposed in the rule consist of NO_x emission limitations and combustion tuning requirements applicable on a year-round basis. The emission limitations are established by source categories with an emission unit size threshold based on available control technologies and cost-effectiveness. Combustion tuning requirements apply to the emission units subject to emission limitations, as well as to smaller emission units. The emission limit and combustion tuning requirements are established based on a cost-effectiveness of \$2,500 or less per ton of controlled NO_x emissions. The rule contains exemptions from both RACT requirements for certain types of emission units demonstrating low operating levels during the ozone season. An additional exemption recognizes that the NO_x emissions of certain smaller emission units are already well controlled under existing ch. NR 428 provisions and no further action is cost-effective in meeting an NO_x RACT emission limit.

The proposed rule contains several provisions to address technical issues and provide compliance flexibility. The rule proposes a specific phased schedule applicable to large coal boilers owned or operated by electric utilities in order to maintain electric reliability, with final compliance by May 1, 2013. For compliance flexibility, the rule allows facility-wide and multi-facility emission averaging between emission units at the affected facilities. An affected entity may also request an alternate RACT requirement for an emission unit based on a technical and economic demonstration.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

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