

**DATES:** Any comments on this proposal must arrive by May 21, 2007.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2007-0197, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions.

2. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

**Instructions:** All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail <http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at

<http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, EPA Region IX, (415) 947-4126, [rose.julie@epa.gov](mailto:rose.julie@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposal addresses the provisions in the following table:

SUBMITTED PROVISIONS

NAC No.	NAC title	Adopted	Submitted
445B.134	“Person” defined	09/06/06	12/08/06
445B.230	Plan for reduction of emissions	09/06/06	12/08/06
445B.258	Monitoring systems: Verification of operational status	09/06/06	12/08/06
445B.259	Monitoring systems: Performance evaluations	09/06/06	12/08/06
445B.260	Monitoring systems: Components contracted for before September 11, 1974.	09/06/06	12/08/06

In the Rules and Regulations section of this **Federal Register**, we are approving these provisions in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: April 4, 2007.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*  
[FR Doc. E7-7548 Filed 4-19-07; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R05-OAR-2006-0609; FRL-8302-7]

**Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; NSR Reform Regulations, Rule AM-06-04**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve certain revisions to Wisconsin’s prevention of significant deterioration (PSD) and non-attainment new source review (NSR) construction permit programs submitted on May 25, 2006. On December 31, 2002, EPA published revisions to the federal PSD and non-attainment NSR regulations. These revisions are commonly referred to as “NSR Reform” regulations, which became effective on March 3, 2003. These regulatory revisions include provisions for determining baseline actual emissions, provisions for promulgating actual-to-future actual methodology, provisions for establishing Plantwide Applicability Limits (PALs), provisions for using the Clean Unit test, and, provisions for using Pollution Control Projects (PCP).

On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit (DC Circuit Court) issued its ruling on challenges to the December 2002 NSR reform revisions. Although the Court upheld most of EPA’s rules, it vacated both the Clean Unit and the PCP provisions. In addition, the Court remanded to EPA the provision that requires recordkeeping and reporting for sources that elect to use the actual-to-projected actual emission test only where there is a reasonable possibility that a project may result in a significant net emissions increase. EPA is currently working on promulgating a rule that will clarify the reasonable possibility provision. EPA’s final decision with regard to the remand may require Wisconsin to revise this portion of its rules to be consistent with EPA’s definition of reasonable possibility. The Wisconsin Department of Natural Resources (WDNR) is seeking approval of rule AM-06-04 to implement the NSR Reform provisions that have not been vacated by the June 24, 2005, DC Circuit Court decision. This action affects major stationary sources in Wisconsin that are subject to or potentially subject to the PSD, and non-attainment NSR construction permit programs.

**DATES:** Comments must be received on or before May 21, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0609, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- E-mail: [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).
- Fax: (312)886-5824.
- Mail: Pamela Blakley, Chief, Air Permits Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- Hand Delivery: Pamela Blakley, Chief, Air Permits Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2006-0609. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section

I of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Danny Marcus, Environmental Engineer, at (312) 353-8781 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Danny Marcus, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8781, [marcus.danny@epa.gov](mailto:marcus.danny@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Should I Consider as I Prepare My Comments for EPA?
- II. What Is Being Addressed in This Document?
- III. What Are the Changes That EPA Is Proposing To Approve?
- IV. What Action Is EPA Taking Today?
- V. Statutory and Executive Order Reviews

**I. What Should I Consider as I Prepare My Comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

**II. What Is Being Addressed in This Document?**

We are proposing to approve rule AM-06-04 as a revision to the PSD and non-attainment NSR construction permit programs for the State of Wisconsin. EPA granted full approval to Wisconsin's non-attainment NSR program on January 18, 1995 (60 FR 3538) and the approval became effective on February 17, 1995. EPA granted final full approval to Wisconsin's PSD program on May 27, 1999 (64 FR 28745), which became effective on June 28, 1999.

On December 31, 2002, EPA published revisions to the federal PSD and non-attainment NSR regulations in 40 CFR Parts 51 and 52 (67 FR 80186). These revisions are commonly referred to as "NSR Reform" regulations and became effective on March 3, 2003. These regulatory revisions included provisions for determining baseline actual emissions, provisions for promulgating actual-to-future actual methodology, provisions for establishing Plantwide Applicability Limits (PALs), provisions for using the Clean Unit test, and, provisions for using Pollution Control Projects (PCP). As stated in the December 31, 2002, EPA rulemaking, state and local permitting agencies must adopt and submit revisions to their part 51 permitting programs implementing the minimum program elements of that rulemaking no later than January 2, 2006 (67 FR 80240). With this submittal, Wisconsin requests approval of program revisions that satisfy this requirement.

WDNR originally prepared rule changes to adopt a version of the federal rule revisions which were subsequently authorized by the Wisconsin Natural Resources Board for public hearing in December 2003. After the DC Circuit Court ruled on the challenges of the federal NSR changes, WDNR moved forward to adopt those portions of the reform rules that the Court upheld and clarify those portions that the Court remanded back to EPA. WDNR submitted these regulatory revisions on May 22, 2006.

### III. What Are the Changes That EPA Is Proposing To Approve?

#### Chapter NR 405—PSD rules

##### Section 1

NR 405.01(1) and (2)

WDNR has amended the language for “applicability” and “purpose” to be more consistent with the language of the federal rule in § 51.166(a)(7)(i) and (ii), respectively, of the federal rule.

##### Section 2

NR 405.02(1)(Intro) and (a) to (c)

WDNR has amended the definition of “actual emissions” so that it is more consistent with § 51.166(b)(21)(i) of the federal rule.

##### Section 3

NR 405.02(1)(d)

WDNR has rescinded section NR 405.02(1)(d), which is the portion of the definition of “actual emissions” that discussed actual emissions from electric utility steam generating units. The new provision under the definition of “Baseline actual emissions”, under section NR 405.02(2m)(b) addresses the average rate of emissions per year from existing electric utility steam generating units. This is consistent with § 51.166(b)(47)(i) of the federal rule.

##### Section 4

NR 405.02(2m)

WDNR has established the definition of “baseline actual emissions”. This is consistent with the definition in § 51.166(b)(47) of the federal rule.

##### Section 5

NR 405.02(8) and (11)

WDNR has amended the definition of “Building, structure, facility, or installation” to reflect its use of the phrase “regulated NSR contaminant” to replace “air contaminant.” WDNR has amended the definition of “construction” so that it is more consistent with the definition in § 51.166(b)(8) of the federal rule.

##### Section 6

NR 405.02(11c), (11e) and (11j)

WDNR has established the definitions of; “Continuous emissions monitoring system” (CEMS), “Continuous emissions rate monitoring system” (CERMS), and “Continuous parameter monitoring system” (CPMS). These definitions are consistent with § 51.166(b)(43), (46) and (45), respectively, of the federal rule.

##### Section 7

NR 405.02(12)

WDNR has established the definition of “emissions unit”. This is consistent with the definition in § 51.166(b)(7) of the federal rule.

##### Section 8

NR 405.02(20m)

WDNR has established the definition of “Lowest Achievable Emission Rate” or “LAER”. This is consistent with the definition in § 51.166(b)(52) of the federal rule.

##### Section 9

NR 405.02(21) and (24)

WDNR has modified the definitions of “Major modification” and “Net emissions increase” to be more consistent with § 51.166(b)(2) and (b)(3), respectively, of the federal rule. WDNR has also added the language for “routine maintenance, repair, and replacement” under section NR 405.02(21), which makes the rule more consistent with § 51.166(b)(2)(iii) of the federal rule.

##### Section 10

NR 405.02(24j)

WDNR has established the definition of “Plant-wide applicability limitation” or “PAL”. This is consistent with the definition in § 51.166(w)(2)(v) of the federal rule.

##### Section 11

NR 405.02(24m)

WDNR has rescinded section NR 405.02(24m), the definition of pollution control projects (PCPs). This provision was vacated by the D.C. Circuit Court. Therefore, WDNR is making its rules consistent with the Court’s decision.

##### Section 12

NR 405.02(25b), (25d), (25e), (25f)(a) and (25i)

WDNR has established the definitions of, “Predictive emissions monitoring system (PEMS)”, “PSD program”, “Project”, “Projected actual emissions”, and “Regulated NSR air contaminant”. These definitions are consistent with § 51.166(b)(44), (42), (51), (40), (49), respectively, of the federal rule.

##### Section 13

NR 405.02(27)(a)8., 17., and 18.

WDNR has rescinded sections NR 405.02(27)(a)8, 17, and 18. The pollutants Mercury, Chlorofluorocarbons and Halons are not regulated by the federal PSD rules. This is consistent with § 51.166(b)(23)(i) of the federal rule.

##### Section 14

NR 405.02(27m)

WDNR has established the definition of “significant emissions increase”. This is consistent with § 51.166(b)(39) of the federal rule.

##### Section 15

NR 405.025

WDNR has established a provision that provides a detailed explanation of calculating increases in actual emissions from (1) existing emission units, (2) new emission units, and (3) new and existing emission units. This provision addresses actual emissions and baseline actual emissions. This is consistent with the “actual-to-projected actual applicability test” provisions that can be found at § 51.166(a)(7)(iv)(c), (d), and (f) of the federal rule.

##### Section 16

NR 405.16(3) and (4)

WDNR has added language regarding sources that choose to use the actual-to-projected actual applicability test and do not trigger PSD. WDNR specifies recordkeeping and reporting requirements for all sources that elect to use the applicability test. The federal rules require a source to follow the recordkeeping and reporting requirements in this section if there is a “reasonable possibility” that a source may exceed the projected actual emissions. The “reasonable possibility” clause of this provision of the federal rule was remanded to EPA in the June 24, 2005, DC Circuit Court ruling, *State of New York et al. v. EPA*, 413 F.3d 3 (DC Cir. 2005). At this time, EPA has not responded to the remand order and this provision remains a part of the federal rule. See 40 CFR 51.166(r)(6). As Wisconsin’s requirement of recordkeeping and reporting for all facilities using the actual-to-projected actual applicability test is more stringent than the federal rule, we propose to approve this approach.

##### Section 17

NR 405.18 PALs in Attainment Areas  
NR 405.18(1)

This portion of 405.18 outlines the “APPLICABILITY” provision of PALs. This provision is consistent with § 51.166(w)(1) of the federal rule.

NR 405.18(2)

This section of 405.18 outlines the “DEFINITIONS” provision of PALs. The included definitions in this section are; “Allowable emissions”, “Major emissions unit”, “PAL effective date”,

“PAL effective period”, “PAL major modification”, “PAL permit”, “PAL regulated air contaminant”, “Significant emissions unit”, and “Small emissions unit”. This section is consistent with § 51.166(w)(2) of the federal rule.

NR 405.18(3)

This section of 405.18 outlines the “PERMIT APPLICATION REQUIREMENTS” provision of PALs. This provision is consistent with § 51.166(w)(3) of the federal rule.

NR 405.18(4)

This section of 405.18 outlines the “GENERAL REQUIREMENTS FOR ESTABLISHING PALS” provision of PALs. This provision is consistent with § 51.166(w)(4) of the federal rule.

NR 405.18(5)

This section of 405.18 outlines the “PUBLIC PARTICIPATION REQUIREMENTS FOR PALS” provision of PALs. This provision is consistent with § 51.166(w)(5) of the federal rule.

NR 405.18(6)

This section of 405.18 outlines the “SETTING THE 10-YEAR PAL LEVEL” provision of PALs. This provision is consistent with § 51.166(w)(6) of the federal rule.

NR 405.18(7)

This section of 405.18 outlines the “CONTENTS OF THE PAL PERMIT” provision of PALs. This provision is consistent with § 51.166(w)(7) of the federal rule.

NR 405.18(8)

This section of 405.18 outlines the “PAL EFFECTIVE PERIOD AND REOPENING OF THE PAL PERMIT” provision of PALs. This provision is consistent with § 51.166(w)(8) of the federal rule.

NR 405.18(9)

This section of 405.18 outlines the “EXPIRATION OF A PAL” provision of PALs. This provision is consistent with § 51.166(w)(9) of the federal rule.

NR 405.18(10)

This section of 405.18 outlines the “RENEWAL OF A PAL” provision of PALs. This provision is consistent with § 51.166(w)(10) of the federal rule.

NR 405.18(11)

This section of 405.18 outlines the “INCREASING A PAL DURING THE PAL EFFECTIVE PERIOD” provision of PALs. This provision is consistent with § 51.166(w)(11) of the federal rule.

NR 405.18(12)

This section of 405.18 outlines the “MONITORING REQUIREMENTS FOR PALS” provision of PALs. This provision is consistent with § 51.166(w)(12) of the federal rule.

NR 405.18(13)

This section of 405.18 outlines the “RECORDKEEPING REQUIREMENTS” provision of PALs. This provision is consistent with § 51.166(w)(13) of the federal rule.

NR 405.18(14)

This section of 405.18 outlines the “REPORTING AND NOTIFICATION REQUIREMENTS” provision of PALs. This provision is consistent with § 51.166(w)(14) of the federal rule.

NR 405.18(15)

This section of 405.18 outlines the “TRANSITION REQUIREMENTS” provision of PALs. This provision is consistent with § 51.166(w)(15) of the federal rule.

*Chapter NR 408—Nonattainment Major NSR Program*

*Section 18*

NR 408.02(1)

WDNR has established the definition of “Actual emissions”. This is consistent with the definition in § 51.165(a)(1)(xii) of the federal rule.

*Section 19*

NR 408.02(2m)

WDNR has established the definition of “Baseline actual emissions”. This is consistent with the definition in § 51.165(a)(1)(xxxv) of the federal rule.

*Section 20*

NR 408.02(4), (5), and (11)

WDNR has established the definitions of “Best available control technology” or “BACT”, “Building, structure, facility or installation”, and “Construction”. These definitions are consistent with the definitions in §§ 51.165(a)(1)(xl), 51.165(a)(1)(ii), and 51.165(a)(1)(xviii), respectively, of the federal rule.

*Section 21*

NR 408.02(11e), (11m) and (11s)

WDNR has established the definitions of; “Continuous emissions monitoring system” or “CEMS”, “Continuous emissions rate monitoring system” or “CERMS”, and “Continuous parameter monitoring system” or “CPMS”. These definitions are consistent with § 51.165(a)(1)(xxxi), (xxxiv) and (xxxiii), respectively, of the federal rule.

*Section 22*

NR 408.02(13)

WDNR has established the definition of “emissions unit”. This is consistent with the definition in § 51.165(a)(1)(vii) of the federal rule.

*Section 23*

NR 408.02(13m)

WDNR has established the definition of “federal land manager”. This is consistent with the definition in § 51.165(a)(1)(xlii) of the federal rule.

*Section 24*

NR 408.02(20)

WDNR has established the definition of “major modification”. This is consistent with the definition in § 51.165(a)(1)(v) of the federal rule. WDNR has also added the language for “routine maintenance, repair, and replacement” under section NR 408.02(20), which makes the rule more consistent with § 51.165(a)(1)(v)(C) of the federal rule.

*Section 25*

NR 408.02(21)(a)1.(Intro)

WDNR has modified this paragraph so that “air pollutants” are now “air contaminants”. WDNR’s rules are replacing “pollutants” with “contaminants”, and the criteria pollutants are referred to as; “NSR air contaminants”.

*Section 26*

NR 408.02(23)

WDNR has modified the definition of “net emissions increase” to be more consistent with § 51.165(a)(1)(vi) of the federal rule.

*Section 27*

NR 408.02(24m) and (25s)

WDNR has established the definitions for “nonattainment major new source review” and “plant-wide applicability limitation”. These definitions are consistent with §§ 51.165(a)(1)(xxx) and § 51.165(f)(2)(v), respectively, of the federal rule.

*Section 28*

NR 408.02(27)

WDNR has rescinded the existing PCP provision, which is consistent with the federal rules.

*Section 29*

NR 408.02(28e), (28j), (28m), (28s)(a), (29m), and (32m)

WDNR has established the definition of; “predictive emissions monitoring

system” or “PEMS”, “prevention of significant deterioration permit” or “PSD Permit”, “project”, “projected actual emissions”, “regulated NSR air contaminant”, and “significant emissions increase”. These definitions are consistent with §§ 51.165(a)(1)(xxxii), 51.165(a)(1)(xli), 51.165(a)(1)(xxxix), 51.165(a)(1)(xxviii), 51.165(a)(1)(xxxvii), and 51.165(a)(1)(xxvii), respectively, of the federal rule. However, as a small deviation to note, WDNR has chosen to refer to an NSR pollutant as an NSR air contaminant.

### Section 30

NR 408.025

WDNR has established a provision that provides a detailed explanation of calculating increases in actual emissions from (1) existing emission units, (2) new emission units, and (3) new and existing emission units. This provision addresses actual emissions and baseline actual emissions. This is consistent with the “actual-to-projected actual applicability test” provisions that can be found at § 51.165(a)(2)(ii)(C), (D), and (F) of the federal rule.

### Section 31

NR 408.06(10)

WDNR has established this provision consistent with § 51.165(a)(3)(ii)(J) of the federal rule, regarding the total increase in emissions resulting from a major modification.

### Section 32

NR 408.10(5) and (6)

WDNR has added language regarding sources that choose to use the actual-to-projected actual applicability test and do not exceed the significance threshold for any pollutant regulated by chapter NR 408. WDNR specifies recordkeeping and reporting requirements for all sources that elect to use the applicability test. The federal rules require a source to follow the recordkeeping and reporting requirements in this section if there is a “reasonable possibility” that a source may exceed the projected actual emissions. The “reasonable possibility” clause of this provision of the federal rule has been remanded to EPA in the June 24, 2005, DC Circuit Court ruling, *State of New York et al. v. EPA*, 413 F.3d 3 (DC Cir. 2005). At this time, EPA has not responded to the remand order and this provision remains a part of the federal rule. See 40 CFR 51.165(a)(6). As Wisconsin’s requirement of recordkeeping and reporting for all facilities using the actual-to-projected

actual applicability test is more stringent than the federal rule in that it applies to all sources and not just where there is a “reasonable possibility” that the source may exceed the projected actual emissions, we propose to approve this approach.

### Section 33

NR 408.11 PALs in Non-Attainment Areas

NR 408.11(1)

This portion of 408.11 outlines the “APPLICABILITY” provision of PALs. This provision is consistent with § 51.165(f)(1) of the federal rule.

NR 408.11(2)

This section of 405.18 outlines the “DEFINITIONS” provision of PALs. The included definitions in this section are; “allowable emissions”, “major emissions unit”, “PAL effective date”, “PAL effective period”, “PAL major modification”, “PAL permit”, “PAL regulated air contaminant”, “significant emissions unit”, and “small emissions unit”. This section is consistent with § 51.165(f)(2) of the federal rule.

NR 408.11(3)

This section of 408.11 outlines the “PERMIT APPLICATION REQUIREMENTS” provision of PALs. This provision is consistent with § 51.165(f)(3) of the federal rule.

NR 408.11(4)

This section of 408.11 outlines the “GENERAL REQUIREMENTS FOR ESTABLISHING PALS” provision of PALs. This provision is consistent with § 51.165(f)(4) of the federal rule.

NR 408.11(5)

This section of 408.11 outlines the “PUBLIC PARTICIPATION REQUIREMENTS FOR PALS” provision of PALs. This provision is consistent with § 51.165(f)(5) of the federal rule.

NR 408.11(6)

This section of 408.11 outlines the “SETTING THE 10-YEAR PAL LEVEL” provision of PALs. This provision is consistent with § 51.165(f)(6) of the federal rule.

NR 408.11(7)

This section of 408.11 outlines the “CONTENTS OF THE PAL PERMIT” provision of PALs. This provision is consistent with § 51.165(f)(7) of the federal rule.

NR 408.11(8)

This section of 408.11 outlines the “PAL EFFECTIVE PERIOD AND REOPENING OF THE PAL PERMIT”

provision of PALs. This provision is consistent with § 51.165(f)(8) of the federal rule.

NR 408.11(9)

This section of 408.11 outlines the “EXPIRATION OF A PAL” provision of PALs. This provision is consistent with § 51.165(f)(9) of the federal rule.

NR 408.11(10)

This section of 408.11 outlines the “RENEWAL OF A PAL” provision of PALs. This provision is consistent with § 51.166(f)(10) of the federal rule.

NR 408.11(11)

This section of 408.11 outlines the “INCREASING A PAL DURING THE PAL EFFECTIVE PERIOD” provision of PALs. This provision is consistent with § 51.165(f)(11) of the federal rule.

NR 408.11(12)

This section of 408.11 outlines the “MONITORING REQUIREMENTS FOR PALS” provision of PALs. This provision is consistent with § 51.165(f)(12) of the federal rule.

NR 408.11(13)

This section of 408.11 outlines the “RECORDKEEPING REQUIREMENTS” provision of PALs. This provision is consistent with § 51.165(f)(13) of the federal rule.

NR 408.11(14)

This section of 408.11 outlines the “REPORTING AND NOTIFICATION REQUIREMENTS” provision of PALs. This provision is consistent with § 51.165(f)(14) of the federal rule.

NR 408.11(15)

This section of 408.11 outlines the “TRANSITION REQUIREMENTS” provision of PALs. This provision is consistent with § 51.165(f)(15) of the federal rule.

### Section 34

NR 484.04(21)

This section is amended by WDNR so that the performance specifications in 40 CFR part 60, Appendix B, are incorporated by reference. Appendix B contains CEM performance specifications that are required by chapters NR 405 and NR 408. We propose to approve this provision into the SIP.

### Section 35

NR 484.04(27m)

This section was created by WDNR to incorporate by reference, 40 CFR part 82, Subpart A, for the ozone depleting substance list that existed in the

Pollution Control Project provision that was in the original version of the rules. The Pollution Control Project provision has been vacated. However, this section will remain in the rules in case it is needed for reference in the future. We propose to approve this provision into the SIP.

#### Section 36

This section states the date rule AM-06-04 becomes effective by WDNR. The date will be the first day of the month following publication in the Wisconsin administrative register. Also, WDNR will not publish the rule until EPA approves it.

#### Section 37

This section contains the date the rule is approved to be adopted by the State of Wisconsin Natural Resources Board.

### IV. What Action Is EPA Taking Today?

EPA is proposing to approve into the Wisconsin State Implementation Plan (SIP) the revisions to WDNR's PSD and Non-attainment NSR construction permits program submitted by WDNR on May 25, 2006. These revisions meet the minimum program requirements of the December 31, 2002, EPA NSR Reform rulemaking.

### VI. Statutory and Executive Order Reviews

#### *Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

#### *Paperwork Reduction Act*

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *Regulatory Flexibility Act*

This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### *Unfunded Mandates Reform Act*

Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required

by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

#### *Executive Order 13132: Federalism*

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

#### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### *Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

#### *Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a "significant regulatory action" under Executive Order 12866 or is likely to have a significant adverse effect on the supply, distribution, or the use of energy, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

#### *National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed

or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 11, 2007.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0609; FRL-8302-8]

### Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; New Source Review Reform "Linkage" Rule, Rule AM-32-04b

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve as a revision to the Wisconsin State Implementation Plan (SIP) changes to the minor New Source Review (NSR) construction permit program and permits fees schedule, through rule AM-32-04b. The purpose of rule AM-32-04b is to update Wisconsin's minor NSR construction permit program to include changes to implement the new elements of the federal "NSR Reform" rules for sources that are exempt from major NSR permitting requirements. Rule AM-32-04b has been created to accompany the "NSR Reform" rules and is necessary to effectively implement