

Notice of Hearing

The Department of Natural Resources announces that it will hold a public hearing on a permanent rule to revise chs. NR 400, 428 and 484, relating to nitrogen compound emissions regulations (Board Order AM-05-21), at the time and location shown below.

The public hearing concerns the proposed revision of Wisconsin's State Implementation Plan (SIP) developed under s. 285.11(6), Stats. Final rules affecting chs. NR 400, 428 and 484, Wis. Adm. Code, promulgated under this rulemaking will be submitted to the United States Environmental Protection Agency (EPA) for approval and incorporation into Wisconsin's SIP.

This public hearing notice and request for comments satisfies requirements in ch. 227, Stats., for rulemaking and 40 CFR Part 51.102 for submittal of the final rules to EPA as a revision to Wisconsin's SIP.

Hearing Information

Date: Wednesday, May 31, 2023

Time: 9:30 a.m. central time

Virtual Location Link:

- Online via Zoom: <https://us02web.zoom.us/j/82014995015>
- Call in: 1 305 224 1968
- Meeting ID: 820 1499 5015

Rule Information

Nitrogen oxides (NO_x) react with volatile organic compounds in the presence of sunlight to form ground-level ozone. Concentrations of ozone above the National Ambient Air Quality Standards (NAAQS) are known to adversely impact human health and the environment. The U.S. Environmental Protection Agency has designated several areas along the Lake Michigan shoreline in eastern Wisconsin as "nonattainment areas" due to ozone concentrations violating the NAAQS. Emissions sources located in nonattainment areas are subject to more stringent controls under the Clean Air Act. Chapter NR 428, Wis. Adm. Code, regulates the emissions of NO_x from certain stationary sources located in current ozone nonattainment areas and areas with a history of ozone nonattainment.

Since the last time ch. NR 428, Wis. Adm. Code, was revised in 2007, the department has identified several implementation issues associated with certain parts of the chapter. The department is proposing revisions to the chapter to ensure clear and consistent implementation of this rule. The proposed changes include:

- Correcting the emission limit for certain categories of combined cycle combustion turbines and incorporating a site-specific emission limit alternative. These changes are necessary to ensure that limits are achievable in practice at all times of operation.
- Clarifying emission limits and monitoring requirements that apply when a facility uses more than one type of fuel.
- Combining and streamlining redundant monitoring requirements in s. NR 428.04(3)(a) and (b), Wis. Adm. Code.
- Clarifying monitoring requirements for kilns, furnaces, asphalt plants, process heating units, engines, and other types of units under s. NR 428.08(2), Wis. Adm. Code.

- Providing stationary sources the option to request an alternative time period to the default 180-day waiting period between the compliance monitoring plan submittal deadline and initial operation of a facility.
- Clarifying that the unit exception in s. NR 428.21(3), Wis. Adm. Code, applies only to units constructed before August 1, 2007, as originally intended.
- Updating cross references to federal methods for determining NOx emissions from stationary sources.

Accessibility

For the hearing or visually impaired, non-English speakers, or those with other personal circumstances which might make communication at the meeting/hearing difficult, DNR will, to the maximum extent possible and with reasonable advance notice, provide aids including an interpreter, or a non-English, large-print, or recorded version of hearing documents. To access these resources, please contact the email address or phone number listed below as soon as possible.

Appearances at the Hearing and Submittal of Written Comments

The public has the opportunity to testify at the hearing. Pre-registration is strongly encouraged if you plan to provide spoken comments during the hearing. To pre-register, either use the Zoom link above prior to the day of the hearing or download and complete the fillable [hearing appearance form](#) and send it to olivia.salmon@wisconsin.gov.

Comments on the proposed rule must be received on or before June 7, 2023. Written comments may be submitted by U.S. mail, E-mail, or through the internet and will have the same weight and effect as oral statements presented at the public hearing.

Written comments and any questions on the proposed rules should be submitted to:

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The rule may be viewed at: <https://dnr.wi.gov/news/input/ProposedPermanent.html>

Comments can be made at: DNRAAdministrativeRulesComments@wisconsin.gov

The rule may be reviewed, and comments made at: <http://docs.legis.wisconsin.gov/code/chr/hearings>.

Initial Regulatory Flexibility Analysis

The proposed revisions are intended to clarify existing requirements and to ensure clear and consistent implementation of ch. NR 428, Wis. Adm. Code. The proposed changes to ch. NR 428, Wis. Adm. Code, will not result in any existing facility, small business or otherwise, becoming newly subject to NOx RACT emission limits upon promulgation of this rule.

Agency Small Business Regulatory Coordinator:

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