

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
REPEALING, AMENDING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to repeal NR 415.04(5), 415.05(5), and 415.06(5); to amend NR 415.04 (2)(intro.), (3)(intro.), (a), and (4) (intro.) and (b), 415.05(3)(intro.), 415.06(3)(intro.) and (4) and 415.075(3)(title) and (intro.); and to create NR 415.035 relating to control of particulate matter emissions.

AM-16-00

Commented [RWP1]: Draft #5D, 4/20/01, as submitted for adoption.

Analysis Prepared by the Department of Natural Resources

Authorizing Statutes: ss. 227.11(2)(a) and 285.11(1), Stats.

Statutes interpreted: s. 285.11(6), Stats. The State Implementation Plan developed under that provision is revised.

The proposed rule revision will change the applicability of certain particulate matter requirements by substituting for the term "nonattainment area" a description of specific geographic areas where the requirements would continue to be in effect. This will allow certain state designated nonattainment areas for total suspended particulates (TSP) to be redesignated to attainment without sacrificing the particulate limits and control requirements which helped to lower particulate matter concentrations in those areas.

Those provisions in ch. NR 415 being repealed pertain to schedules for a facility to achieve compliance with the particulate emission limiting requirements for a nonattainment area. These deadlines have passed, and any future TSP nonattainment designations will be accompanied by rule changes that will include compliance schedules.

Proposed amendments to ch. NR 415 replace the term "nonattainment area" with a reference to a section that contains a description of the specific geographic areas where the particulate matter requirements would continue to be in effect.

The new s. NR 415.035 being created contains the descriptions of the specific geographic areas where the particulate matter requirements currently applicable to nonattainment areas would continue to be in effect. The areas described are identical to the current TSP nonattainment areas.

SECTION 1. NR 415.035 is created to read:

NR 415.035 Specific geographic areas for additional particulate emission control. (1) FUGITIVE

DUST CONTROL AREAS. The requirements of s. NR 415.04(2), (3) and (4) apply for the following areas:

(a) A portion of the city of Beloit within a line extending from the intersection of the Chicago and Northwestern railroad tracks and the body of water identified as Lennigan creek, east to the intersection of Washburn avenue and Wisconsin avenue, south on Wisconsin avenue to the intersection of Wisconsin avenue and Grand avenue, continuing southeast on Grand avenue to the intersection of Grand avenue and Dearborn avenue, continuing south on Dearborn avenue to the intersection of Dearborn avenue and the Wisconsin-Illinois border, west along the Wisconsin-Illinois border to the intersection of the Wisconsin-Illinois border and the Chicago and

Northwestern railroad tracks, and north along the Chicago and Northwestern railroad tracks to the body of water identified as Lennigan creek.

(b) A portion of the city of Milwaukee within a line extending from the intersection of 55th street and Center street east on Center street to the shoreline of Lake Michigan, south along the shoreline of Lake Michigan to a point east of Morgan avenue, west to Morgan avenue, continuing west along Morgan avenue to the intersection of Morgan avenue and 6th street, north on 6th street to Oklahoma avenue, west on Oklahoma avenue to 55th street, and north on 55th street to Center street.

(c) A portion of the city of Waukesha within a line extending from the intersection of North street and an extension of Margaret street, east to Margaret street, continuing along Margaret street to the intersection of Margaret street and Highland boulevard, south on Highland boulevard to the intersection of Highland boulevard and Moreland boulevard, southwest on Moreland boulevard to the intersection of Moreland boulevard and Waukesha avenue, south on Waukesha avenue extended to the intersection of Main street and the railroad tracks and Arcadian avenue, west on Arcadian avenue to the intersection of Arcadian avenue and East avenue, north on East avenue to the intersection of East avenue and Buckley street, northwest across the Fox river to Union street, continuing northwest on Union street to the intersection of Union street and North street, and northeast on North street to the extension of Margaret street.

(2) DIRECT OR PORTABLE SOURCE CONTROL AREAS. The requirements of ss. NR 415.05(3), 415.06(3) and (4) and 415.075(3) apply for the following areas:

- (a) The portion of the city of Beloit within the boundaries specified in sub. (1)(a).
- (b) The portion of the city of Milwaukee within the boundaries specified in sub. (1)(b).
- (c) The portion of the city of Waukesha within the boundaries specified in sub. (1)(c).

SECTION 2. NR 415.04 (2)(intro.) is amended to read:

NR 415.04 (2)(intro.) In addition to meeting the requirements of sub. (1), any direct or portable source located in a ~~nonattainment area identified under s. NR 401.025 (1) for suspended particulate matter~~ an area identified in s. NR 415.035(1); and any direct or portable source located near ~~such the~~ such the areas whose aggregate fugitive dust emissions may cause an impact on the ambient air quality in ~~such the~~ such the areas equal to or greater than an annual concentration of one microgram per cubic meter (annual concentration) or a maximum 24-hour concentration

of 5 micrograms per cubic meter (~~maximum 24-hour concentration~~), as determined by the analysis under ch. NR 401, shall meet the following RACT requirements:

SECTION 3. NR 415.04(3)(intro.) and (a) are amended to read:

NR 415.04 (3)(intro.) In addition to meeting the requirements of sub. (1), private industrial or commercial trafficable areas, roads and driveways which are located in or within one mile of ~~a nonattainment area identified under s. NR 401.025(1) for suspended particulate matter~~ an area identified in s. NR 415.035(1), are 20,000 square feet or more in total area, are on contiguous property under common ownership or control, and are subject on 3 separate days during any 14 consecutive day period to motor vehicle traffic at any point within the roads, driveways or trafficable areas at a rate equal to or greater than 10 motor vehicles per 60 minute period, shall meet the following RACT ~~emission limitations~~ requirements:

(a) Be paved with asphalt, concrete or other material approved by the department, or use other methods of dust control which the department approves as representing RACT for the particular road, driveway or trafficable area. The other methods of dust control which may be approved by the department include but are not limited to periodic application of water or suitable chemicals. ~~In reviewing and acting upon plans required by sub. (5) for assessing compliance with this subsection, the department shall consider the effects of the use of paving or other methods of dust control upon the rate and volume of surface water runoff and water quality.~~

SECTION 4. NR 415.04(4)(intro.) and (b) are amended to read:

NR 415.04 (4)(intro.) In addition to meeting the requirements of sub.(1), any roadway or public trafficable area which is located in or within one mile of ~~a nonattainment area identified under s. NR 401.025(1) for suspended particulate matter~~ an area identified in s. NR 415.035(1) and which is subject on 3 separate days during any 14 consecutive day period to motor vehicle traffic at any point within the roadway or public trafficable area at a rate equal to or greater than 10 motor vehicles per 60 minute period shall meet the RACT ~~emission limitations~~ requirements of this subsection. For purposes of this subsections, ownership or control of different portions of a roadway or public trafficable area by different municipalities, interstate agencies, state agencies or federal agencies may not be considered in determining the contiguous area of the roadway or public trafficable area.

(b) If unpaved, roadways and public trafficable areas subject to this subsection shall be paved with asphalt, concrete or other material approved by the department, or use other methods of dust control which the department approves as representing RACT for the particular roadway or public trafficable area. The other methods of dust control which may be approved by the department include but are not limited to periodic application of water or suitable chemicals. ~~In reviewing and acting upon plans required by sub. (5) for assessing compliance with this subsection, the department shall consider the effects of the use of paving or other methods of dust control upon the rate and volume of surface water runoff and water quality. This paragraph does not apply to roadways or to public trafficable areas which have less than 20,000 contiguous square feet of unpaved surface area.~~

SECTION 5. NR 415.04 (5) is repealed.

SECTION 6. NR 415.05 (3) (intro.) is amended to read:

NR 415.05(3) (intro.) In addition to meeting the requirements of subs. (1) and (2), any direct or portable source located in or near ~~a nonattainment area identified under s. NR 401.025 (1) for suspended particulate matter~~ an area identified in s. NR 415.035(2) whose aggregate particulate emissions, ~~(excluding fugitive dust),~~ may cause an impact on the ambient air quality in ~~such the~~ areas equal to or greater than an annual concentration of one microgram per cubic meter (annual concentration) or a maximum 24-hour concentration of 5 micrograms per cubic meter (maximum 24-hour concentration) as determined by the analysis under s. NR 401.025 shall meet the following RACT emission limitations:

SECTION 7. NR 415.05(5) is repealed.

SECTION 8. NR 415.06(3)(intro.) and (4) are amended to read:

NR 415.06(3)(intro.) In addition to meeting the requirements of sub. (1) or (2), all installations located in or near ~~a nonattainment area identified under s. NR 401.025(1) for suspended particulate matter~~ an area identified in s. NR 415.035(2) whose aggregate particulate emissions, ~~(excluding fugitive dust),~~ may cause an impact on the ambient air quality in ~~such the~~ areas equal to or greater than an annual concentration of one microgram per cubic meter (annual concentration) or a maximum 24-hour concentration of 5 micrograms per cubic meter (maximum 24-

hour concentration) as determined by the analysis under s. NR 401.025 shall meet the following RACT emission limitations:

(4) Notwithstanding sub. (3) (a) or (b), any fuel burning installation of 250 million Btu per hour or less on which construction or modification was commenced on or before April 1, 1972 may emit up to, but not more than, an emission rate defined by the equation

$$E = 0.3 - 0.0006I$$

where I is the heat input in millions of Btu per hour and E is the maximum allowable particulate matter emissions from any stack in pounds per million Btu heat input, if as of March 1, 1980 for installations which may cause an impact on primary or associated secondary nonattainment areas, or as of March 1, 1982 for installations which may cause an impact on any other secondary nonattainment area, the installation has an emission rate based on original design or equipment performance test conditions, which ever is more restrictive, which is less than the limit set by the above equation, and the emission control system of such the installations has not been allowed to degrade more than 0.05 pound per million Btu heat input from original design or acceptance performance test conditions.

SECTION 9. NR 415.06(5) is repealed.

SECTION 10. NR 415.075 (3) (title) and (intro.) are amended to read:

NR 415.075 (3) (title) PARTICULATE EMISSION LIMITATIONS FOR OPERATIONS IN
NONATTAINMENT SPECIFIC GEOGRAPHIC AREAS.

(3) (intro.) In addition to meeting the limitations of sub. (2), the owner or operator of any ledge rock quarry or industrial s and mine located in an area designated as nonattainment for either TSP or PM₁₀ identified in s. NR 415.035(1) shall do all of the following:

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on June 27, 2001.

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 _____
Darrell Bazzell, Secretary

(SEAL)