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

The Wisconsin Natural Resources Board adopts an order to **repeal** NR 460.02(8), 460.04(1)(a)1. to 3., (c) and (d), 460.05(1)(a)2. Note, (3)(c)2., (4)(b) and (c)1. Note (intro.) and (7)(e)3. and 4., 460.06(1)(b)1. to 6., (4)(b)3 and (5)(b)4., 460.08(2)(c) and (d)2. and 3.; to **renumber** NR 460.03(2)(n) and (o) and (3)(e), 460.06(1)(b)7., (4)(b)3. Note and 5., 460.07(3)(b) and 463.12; to **renumber and amend** NR 460.04(1)(a)(intro.), 460.05(3)(c)1. and (4)(c)1. Note a. to c., 460.06(1)(b)(intro.) and (4)(b)4., 463.04(3)(b) and 463.11; to **amend** NR 460.01(1)(a) Note, 460.02(6), (15)(b), (18), (25), (32)(intro.), (34)(a) and (b) and (36), 460.04(2)(c) 460.05(1)(a)(intro.), (2)(a), (c)1., (d) and (f), (3)(b), (4)(a) 1. and 2. and (c)1., 3. to 6., 7.(intro.), b. and c. and 8., (5), (6)(a), (7)(c)1.b. and 2., (e)2.a. and b., (j)1. and (L), 460.06(4)(b)1. and 2. and (5)(a), (b)1. and 2. and (c), 460.07(2)(a)(intro.) and 2. and (b)1. and 2.(intro.), (3)(a)1. and (f), (6)(c)(title), 1. and 2. and (d)(title) and 1.(intro.) and (7)(a), 460.08(2)(b)4., (d)(intro.) and 1. and (e) and (8)(b)1.e. and 2., 460.09(2)(b)2. to 5. and (c) and (4)(a) and (e)1. and 2., 460 Appendix N, 463.02(intro.), (4) Note, (8), (27) and (30), 463.04(3)(title) and (a), (4)(b) and (5)(a) and (c), 463.05(1)(d)2. and (2)(a)2. and 3. and (c), 463.06(1)(c) and (e) and (3)(b)1. and 3., 463.07(1)(a) and (b), (5)(a) and (b)(intro.) and (7)(b), 463.09(5)(e) and 466.09(1)(b); to **repeal and recreate** NR 460.02(1), 460.05(1)(a)1. and 2., 460.07(3)(a)2. and 3. and 463 (title); to **create** NR 460.02(1)(b) and Note, (10) Note, (24c), (24w), (24y), (31g), (37g) and Note, (37r), (38g) and (40), 460.03(2)(n) and (3)(e), 460.05(3m), (4)(c)7.d. and 9., (7)(c)1.c. and (L)1. and 2., (2)(a), (3)(b)2. and (6)(c)4., 460.09(5)(c)1.c., 460.11, 463.01, 463.02(8m), (12m) and (22m), 463.04(3)(a)(title) and 3., (b) and (c)(title), 463.07(1)(c) and (d) and 463.09(6), relating to the incorporation of federal amendments in National Emission Standards for Hazardous Air Pollutants into chs. NR 460 and 463.

AM-06-05

Summary Prepared by the Department of Natural Resources

Statutes interpreted: ss. 285.11(6) and 285.27(2), Stats.

Statutory authority: ss. 227.11(2)(a), 285.11(1) and 285.27(2), Stats.

Explanation of agency authority: Section 285.27(2), Stats., requires that the Department promulgate National Emission Standards for Hazardous Air Pollutants (NESHAP) by rule.

Related statute or rule: All of the MACT standards in chs. NR 461 to 469 refer to requirements in ch. NR 460. The appendices in ch. NR 460 explicitly state which parts of ch. NR 460 apply to the various MACT standards in chs. NR 461 to 469.

Plain language analysis: On March 16, 1994, the US EPA promulgated General Provisions for the National Emission Standards for Hazardous Air Pollutants (NESHAP) for source categories (40 CFR part 63, Subpart A). The Department adopted the federal general provisions, with some modifications, in ch. NR 460, Wis. Adm. Code. On April 5, 2002 (67 FR 16582), May 30, 2003 (68 FR 32586), and April 22, 2004 (69 FR 21752), the US EPA promulgated amendments to the general provisions. In this rule making, the Department proposes to amend ch. NR 460 to incorporate those federal amendments into the state general provisions.

On January 25, 1995, the USEPA promulgated the NESHAP for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks (40 CFR part 63, subpart N). The NESHAP was amended several times since then (61 FR 27785, 6/3/96; 62 FR 42918, 8/11/97; 64 FR 69637, 12/14/99). The chromium NESHAP and amendments listed above have been adopted by the state in ch. NR 463, Wis. Adm. Code. This

NESHAP establishes maximum achievable control technology (MACT) requirements for the chromium electroplating source category.

The chromium electroplating NESHAP was amended again in 2004 (69 FR 42880, 7/19/04). In this rule making, the Department proposes to amend ch. NR 463 to incorporate the federal amendments. The Department also proposes to create subchapter I in ch. NR 463 and place the chromium electroplating NESHAP into that subchapter.

Summary of, and comparison with, existing or proposed federal regulation: The federal amendments to these two NESHAP rules have already been incorporated into the existing federal regulations. In the proposed revisions to the state rules, punctuation, capitalization, numbering and minor word changes were made to accommodate the state rule form and style. In most parts of the proposed revisions, the federal format and language was retained as allowed under s. 227.14(1m)(b), Stats. When these amendments are incorporated into the state rules, the state rules will be essentially identical to the federal regulations.

Comparison with rules in adjacent states: The federal regulations are in effect in every state in the nation, and all affected sources in any state are required to comply with the federal rules. The US Environmental Protection Agency has delegated authority to many states to enforce the federal NESHAP regulations, which generally means that those states adopt the federal regulations as state regulations. Thus, the NESHAP regulations in adjacent states, if any, are identical to the federal rules and the Wisconsin regulations.

Summary of factual data and analytical methodologies: Since the Department is merely adopting federal regulations, we have not compiled any factual data nor used any analytical methodologies. Please see the federal documentation supporting the development and promulgation of the federal regulations at http://www.epa.gov/ttn/atw/gp/gppg.html and http://www.epa.gov/ttn/atw/chrome/chromepg.html

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: Cost estimates and economic impact analyses were prepared by the US Environmental Protection Agency when they promulgated these regulations. See http://www.epa.gov/ttn/atw/gp/gppg.html and http://www.epa.gov/ttn/atw/chrome/chromepg.html

Anticipated costs incurred by private sector: Because the federal regulations are in effect and all affected sources must comply with them, no additional costs will be incurred by the private sector as a result of the promulgation of the state rules.

Effect on small business: Because the federal regulations are in effect and all affected sources must comply with them, there will be no additional effect on small business as a result of the promulgation of the state rules.

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SECTION 1. NR 460.01(1)(a) Note is amended to read:

NR 460.01(1)(a) Note: The general provisions of this chapter eliminate the repetition of requirements applicable to all owners or operators affected by the national emission standards for hazardous air pollutants promulgated under 40 CFR part 63, which are commonly called MACT standards. These standards will regulate specific categories of stationary sources that emit, or have the potential to emit, one or more hazardous air pollutants listed pursuant to section 112 (b) of the ~~act~~ Act (42 USC 7412(b)). The department plans to group the source categories it regulates under chs. NR 460 to 469. ~~The likely standards to be included in chs. NR 460 to 469 by the year 2003 include fuel combustion, metals processing, chromium electroplating and anodizing, pulp and~~

~~paper production, wood furniture manufacturing, printing and publishing, surface coating processes, dry cleaning, and halogenated solvent cleaning.~~

Some delay may occur between the promulgation of the federal standard in 40 CFR part 63 and subsequent promulgation of the standard in chs. NR 460 to 469. Permits under ch. NR 406 or 407 may, under s. 285.65, Stats., specify applicable requirements from 40 CFR part 63 and refer to applicable requirements in this chapter before the specific requirements for the source category can be promulgated in chs. NR 460 to 469.

To obtain the most current list of categories of sources to be regulated under section 112 of the ~~act~~ Act (42 USC 7412), or to obtain the most recent regulation promulgation schedule established pursuant to section 112 (e) of the ~~act~~ Act (42 USC 7412(e)), contact the department's Bureau of Air Management, PO Box 7921, Madison WI 53707, telephone number (608) 266-7718, or EPA's Emissions Standards Division (MD-13), U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park NC 27711, telephone number (919) 541-2380.

SECTION 2. NR 460.02(1) is amended to read:

NR 460.02(1) "Affected source" means one of the following:

(a) For each section 112(d) (42 USC 7412(d)) standard for which the initial proposed rule is signed by the administrator on or before June 30, 2002, the stationary source, the group of stationary sources, or the portion of a stationary source that is regulated by a relevant standard or other requirement established pursuant to section 112 of the Act (42 USC 7412). Each relevant standard in chs. NR 463 to 469 may further define the "affected source" for the purposes of that standard.

SECTION 3. NR 460.02(1)(b) and Note are created to read:

NR 460.02(1)(b) For each standard published pursuant to section 112(d) of the Act (42 USC 7412(d)) for which the initial proposed rule is signed by the administrator after June 30, 2002, the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) (42 USC 7412(c)) source category or subcategory for which a section 112(d) (42 USC 7412(d)) standard or other relevant standard is established pursuant to section 112 of the Act (42 USC 7412).

Note: Each relevant standard will define the affected source as defined in sub. (1) unless the administrator finds that a different definition is warranted based on a published justification as to why this definition would result in significant administrative, practical or implementation problems and why the different definition would resolve those problems. The term affected source, as used in this chapter and chs. NR 463 to 469, is separate and distinct from any other use of that term in EPA or department

regulations such as those implementing title IV of the Act or the Wisconsin acid rain control program. Affected source may be defined differently for 40 CFR part 63 than "affected facility" and "stationary source" in 40 CFR parts 60 and 61, respectively. The procedures for adopting an alternative definition of affected source apply to each section 112(d) standard (42 USC 7412(d)) for which the initial proposed rule is signed by the administrator after June 30, 2002.

SECTION 4. NR 460.02(6) is amended to read:

NR 460.02(6) "Commenced" means, with respect to construction or reconstruction of ~~a stationary~~ an affected source, that an owner or operator has undertaken a continuous program of construction or reconstruction or that an owner or operator has entered into a contractual obligation ~~with persons who have agreed~~ to undertake and complete, within a reasonable time, a continuous program of construction or reconstruction.

SECTION 5. NR 460.02(8) is repealed.

SECTION 6. NR 460.02(10) is amended to read:

NR 460.02(10) "Construction" means the on-site fabrication, erection or installation of an affected source. Construction does not include the removal of all equipment comprising an affected source from an existing location and reinstallation of the equipment at a new location.

SECTION 7. NR 460.02(10) Note is created to read:

NR 460.02(10) Note: Section NR 460.05(3m) addresses source relocation.

SECTION 8. NR 460.02(15)(b) is amended to read:

NR 460.02(15)(b) With regard to an alternative emission limitation or equivalent emission limitation determined by the administrator or the department, the date that the alternative emission limitation or equivalent emission limitation becomes effective according to the provisions of 40 CFR part 63 or chs. NR 460 to 469.

SECTION 9. NR 460.02(18) is amended to read:

NR 460.02(18) "Equivalent emission limitation" means ~~the~~ any maximum achievable control technology emission limitation ~~for~~ or requirements which are applicable to a major source of hazardous air pollutants ~~that~~ and are

adopted by the department ~~determines~~ on a case-by-case basis, pursuant to section 112(g) or (j) of the ~~act~~ Act (42 USC 7412(g) or (j))~~, to be equivalent to the emission standard that would apply to an affected source if the standard had been promulgated by the administrator under 40 CFR part 63 pursuant to section 112 (d) or (h) of the act (42 USC 7412(d) or (h))~~.

SECTION 10. NR 460.02(24c), (24w) and Note and (24y) are created to read:

NR 460.02(24c) "Malfunction" means any sudden, infrequent and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(24w) "Monitoring" means the collection and use of measurement data or other information to control the operation of a process or pollution control device or to verify a work practice standard relative to assuring compliance with applicable requirements. Monitoring is composed of 4 elements:

(a) Indicators of performance—the parameters you measure or observe for demonstrating proper operation of the pollution control measures or compliance with the applicable emissions limitation or standard. Indicators of performance may include direct or predicted emissions measurements, including opacity, operational parametric values that correspond to process or control device and capture system efficiencies or emissions rates, and recorded findings of inspection of work practice activities, materials tracking, or design characteristics. Indicators may be expressed as a single maximum or minimum value; a function of process variables, for example, within a range of pressure drops; a particular operational or work practice status, for example, a damper position, completion of a waste recovery task, materials tracking; or an interdependency between 2 or among more than 2 variables.

(b) Measurement techniques—the means by which you gather and record information of or about the indicators of performance. The components of the measurement technique include the detector type, location and installation specifications, inspection procedures, and quality assurance and quality control measures. Examples of measurement techniques include continuous emission monitoring systems, continuous opacity monitoring systems, continuous parametric monitoring systems, and manual inspections that include making records of process conditions or work practices.

(c) Monitoring frequency—the number of times you obtain and record monitoring data over a specified time interval. Examples of monitoring frequencies include at least 4 points equally spaced for each hour for continuous emissions or parametric monitoring systems, at least every 10 seconds for continuous opacity monitoring systems, and at least once per operating day or week, month, etc. for work practice or design inspections.

(d) Averaging time—the period over which you average and use data to verify proper operation of the pollution control approach or compliance with the emissions limitation or standard. Examples of averaging time include a 3-hour average in units of the emissions limitation, a 30-day rolling average emissions value, a daily average of a control device operational parametric range, and an instantaneous alarm.

(24y) "New affected source" means the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory under section 112 of the Act (42 USC 7412) that is subject to a section 112(d) or other relevant standard for new sources. This definition of new affected source, and the criteria to be utilized in implementing it, shall apply to each section 112(d) standard for which the initial proposed rule is signed by the administrator after June 30, 2002. Each relevant standard will define the term new affected source, which will be the same as the affected source unless the administrator finds that a different collection is warranted based on consideration of factors including all of the following:

(a) Emission reduction impacts of controlling individual sources versus groups of sources.

(b) Cost effectiveness of controlling individual equipment.

(c) Flexibility to accommodate common control strategies.

(d) Cost and benefits of emissions averaging.

(e) Incentives for pollution prevention.

(f) Feasibility and cost of controlling processes that share common equipment, such as product recovery devices.

(g) Feasibility and cost of monitoring.

(h) Other relevant factors.

SECTION 11. NR 460.02(25) is amended to read:

NR 460.02(25) "New MACT source" means any affected source the construction or reconstruction of which is commenced after the administrator first ~~proposes~~ publishes in the federal register a ~~relevant~~ proposed emission standard that would apply to the source under 40 CFR part 63.

SECTION 12. NR 460.02(31g) is created to read:

NR 460.02(31g) "Pollution prevention" has the meaning given for "source reduction" in the Pollution Prevention Act (42 USC s. 13102(5)). The definition is as follows:

(a) "Source reduction" is any practice that does both of the following:

1. Reduces the amount of any hazardous substance, pollutant or contaminant entering any waste stream or otherwise released into the environment, including fugitive emissions, prior to recycling, treatment or disposal.

2. Reduces the hazards to public health and the environment associated with the release of the substances, pollutants or contaminants.

(b) The term "source reduction" includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training or inventory control.

(c) The term "source reduction" does not include any practice that alters the physical, chemical or biological characteristics or the volume of a hazardous substance, pollutant or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

SECTION 13. NR 460.02(32)(intro.), (34)(a)(intro.) and (b) and (36) are amended to read:

NR 460.02(32)(intro.) "Reconstruction", unless otherwise defined in a relevant standard, means the replacement of components of an affected ~~source,~~ or a ~~stationary source that~~ previously ~~was not an affected source,~~ nonaffected source to such an extent that all of the following apply:

(34)(a)(intro.) "Relevant standard" means any of the following established pursuant to section 112 of the ~~act~~ Act (42 USC 7412) that applies to the ~~stationary source, the group of stationary sources, or the portion of a stationary source~~ collection of equipment, activities, or both regulated by the standard or limitation:

(b) A relevant standard may include or consist of a design, equipment, work practice or operational requirement, or other measure, process, method, system or technique, including prohibition of emissions, that the

administrator or the department establishes for new or existing sources to which the standard or limitation applies. Every relevant standard established pursuant to section 112 of the ~~act~~ Act (42 USC 7412) includes Subpart A of 40 CFR part 63, as provided by 40 CFR 63.1(a)(4), and all applicable appendices of 40 CFR part 63 or other parts of title 40 of the ~~code~~ Code of ~~federal regulations~~ Federal Regulations that are referenced in that standard.

(36) "Shutdown" means the cessation of operation of an affected source or portion of an affected source for any purpose.

SECTION 14. NR 460.02(32)(b) Note, (37g) and Note, (37r), (38g) and (40) are created to read:

NR 460.02(32)(b) Note: The question of whether a relocated source is reconstructed is addressed in s. NR 460.05(3m).

(37g) "Source at a performance track member facility" means a major or area source located at a facility which has been accepted by EPA for membership in its Performance Track Program and is still a member of the Program.

Note: The Performance Track Program is a voluntary program that encourages continuous environmental improvement through the use of environmental management systems, local community outreach, and measurable results. It is described on EPA's Web site at www.epa.gov/performancetrack.

(37r) "Startup" means the setting in operation of an affected source or portion of an affected source for any purpose.

(38g) "Title V permit" means any permit issued, renewed or revised under ch. NR 407 for a part 70 source as defined in s. NR 407.02(6).

(40) "Working day" has the meaning given for "business day" in ch. NR 400.02(36m).

SECTION 15. NR 460.03(2)(n) and (o) are renumbered NR 460.03(2)(o) and (p).

SECTION 16. NR 460.03(2)(n) is created to read:

NR 460.03(2)(n) scmm - cubic meter at standard conditions per minute

SECTION 17. NR 460.03(3)(e) is renumbered to NR 460.03(3)(f).

SECTION 18. NR 460.03(3)(e) is created to read:

NR 460.03(3)(e) CPMS - continuous parameter monitoring system

SECTION 19. NR 460.04(1)(a)(intro.) is renumbered NR 460.04(1)(a) and amended to read:

NR 460.04(1)(a) No owner or operator subject to the provisions of chs. NR 460 to 469 may operate any affected source in violation of the requirements of chs. NR 460 to 469 ~~except under any of the following:~~. Affected sources subject to and in compliance with either an extension of compliance or an exemption from compliance are not in violation of the requirements of chs. NR 460 to 469. An extension of compliance may be granted by the administrator under 40 CFR part 63, by the department or by the president under section 112(i)(4) of the Act (42 USC 7412(i)(4)).

SECTION 20. NR 460.04(1)(a)1. to 3., (c) and (d) are repealed.

SECTION 21. NR 460.04(2)(c) is amended to read:

NR 460.04(2)(c) ~~The fragmentation~~ Fragmentation after November 15, 1990 which divides ownership of an operation ~~such that the operation avoids regulation by a relevant standard~~ within the same facility among various owners where there is no real change in control. The owner and operator may not use fragmentation or phasing of reconstruction activities to avoid becoming subject to new source requirements.

SECTION 22. NR 460.05(1)(a)(intro.) is amended to read:

NR 460.05(1)(a)(intro.) The requirements in this section apply to ~~any of the following unless the administrator or the department has granted a compliance date extension consistent with sub. (7); or the president of the United States has granted an exemption from compliance with~~ the owner or operator of affected sources for which any relevant standard has been established pursuant to section 112 of the Act (42 USC 7412) and the applicability of the requirements is set out in accordance with ~~section 112 (i)(4) of the act (42 USC 7412(i)(4))~~ 40 CFR 63.1(a)(4) unless one of the following applies:

SECTION 23. NR 460.05(1)(a)1. and 2. are repealed and recreated to read:

NR 460.05(1)(a)1. The administrator or the department has granted an extension of compliance consistent with sub. (7).

2. The president of the United States has granted an exemption from compliance with any relevant standard in accordance with section 112(i)(4) of the Act (42 USC 7412(i)(4)).

SECTION 24. NR 460.05(1)(a)2. Note is repealed.

SECTION 25. NR 460.05(2)(a), (c)1., (d) and (f) are amended to read:

NR 460.05(2)(a) Except as specified in pars. (c) and (d), the owner or operator of a new or reconstructed affected source for which construction or reconstruction commences after proposal of a relevant standard that has an initial startup before the effective date of a relevant standard established under 40 CFR part 63 pursuant to section 112 (d), (f) or (h) of the ~~act~~ Act (42 USC 7412 (d), (f) or (h)) shall comply with the standard not later than the standard's effective date.

(c)1. The promulgated standard, that is, the relevant standard, is more stringent than the proposed ~~federal~~ standard; for purposes of this subdivision, a finding that controls or compliance methods are "more stringent" shall include control technologies or performance criteria and compliance or compliance assurance methods that are different but are substantially equivalent to those required by the promulgated rule, as determined by the administrator or his or her authorized representative.

(d) The owner or operator of an affected source for which construction or reconstruction is commenced after the proposal date of a relevant standard established pursuant to section 112 (d) of the ~~act~~ Act (42 USC 7412(d)) but before the proposal date of a relevant standard established pursuant to section 112 (f) (42 USC 7412(f)) ~~shall~~ may not be required to comply with the section 112(f) emission standard ~~under section 112 (f) not later than the date 10 years~~ until the date 10 years after the date construction or reconstruction is commenced, except that, if the section 112 (f) standard is promulgated more than 10 years after construction or reconstruction is commenced, the owner or operator shall comply with the standard as provided in pars. (a) and (b).

(f) ~~After the effective date of an emission standard promulgated under 40 CFR part 63, the owner or operator of~~ When an area ~~source that is not an affected source for which construction or reconstruction was commenced after the proposal date of the standard that increases its emissions of, or its potential to emit, hazardous air pollutants such that~~

~~the~~ source becomes a major source ~~that is subject to the emission standard, shall ensure that the source complies with the relevant emission standard immediately upon becoming a major source. This compliance date shall apply to new MACT sources that are area sources that become affected major sources regardless of whether the new area source previously was affected by that standard. The new affected major~~ by the addition of equipment or operations that meet the definition of new affected source in the relevant standard, the portion of the existing facility that is a new affected source shall comply with all requirements of that standard ~~that affect~~ applicable to new MACT sources. The source owner or operator shall comply with the relevant standard upon startup.

SECTION 26. NR 460.05(3)(b) is amended to read:

NR 460.05(3)(b) ~~After the effective date of a relevant~~ If an existing source is subject to a standard established under 40 CFR part 63 pursuant to section 112 (f) of the ~~act~~ Act (42 USC 7412(f)), the owner or operator ~~of an existing source~~ shall comply with the standard ~~not later than~~ by the date 90 days after the standard's effective date ~~unless the department has granted an extension to the source under sub. (7)(c)2~~, or by the date specified in an extension granted to the source by the department under sub. (7)(c)2., whichever is later.

SECTION 27. NR 460.05(3)(c)1. is renumbered 460.05(3)(c) and amended to read:

NR 460.05(3)(c) ~~After the effective date of an emission standard promulgated under 40 CFR part 63~~ Except as provided in sub. (2)(f), the owner or operator of an area source that ~~is an existing source and is not an affected source that~~ increases its emissions of, or its potential to emit, hazardous air pollutants such that the source becomes a major source ~~that is subject to the emission standard~~ shall be subject to relevant standards for existing sources. These sources shall comply by the date specified in the ~~standard for area sources that are~~ standards for existing area sources that become major sources. If no compliance date is specified in the standard, the source shall have a period of time to comply with the relevant emission standard that is equivalent to the compliance period specified in ~~that~~ the relevant standard for ~~other existing sources. This compliance period shall apply to existing~~ sources ~~that are area sources that become affected major sources regardless of whether the existing area source previously was affected by that standard~~ in existence at the time the standard becomes effective.

SECTION 28. NR 460.05(3)(c)2. is repealed.

SECTION 29. NR 460.05(3m) is created to read:

NR 460.05(3m) DETERMINATION OF WHETHER A RELOCATED SOURCE IS RECONSTRUCTED OR EXISTING. As indicated in s. NR 460.02(10), the removal of all equipment comprising an affected source from an existing location and reinstallation of the equipment at a new location does not constitute construction. The owner or operator of an existing affected source that is relocated may elect not to reinstall minor ancillary equipment including, but not limited to, piping, ductwork and valves. However, removal and reinstallation of an affected source will be construed as reconstruction if it satisfies the criteria for reconstruction as defined in s. NR 460.02(32). The costs of replacing minor ancillary equipment shall be considered in determining whether the existing affected source is reconstructed.

SECTION 30. NR 460.05(4)(a)1. and 2. are amended to read:

NR 460.05(4)(a)1. At all times, including periods of startup, shutdown~~,~~ and malfunction, ~~owners or operators~~ the owner or operator shall operate and maintain any affected source, including associated air pollution control and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. During a period of startup, shutdown or malfunction, the general duty to minimize emissions ~~at least~~ requires that the owner or operator reduce emissions from the affected source to the greatest extent which is consistent with safety and good air pollution control practices. The general duty to minimize emissions during a period of startup, shutdown or malfunction does not require the owner or operator to achieve emission levels that would be required by the applicable standard at other times if this is not consistent with safety and good air pollution control practices, nor does it require the owner or operator to make any further efforts to reduce emissions if levels required by ~~all relevant standards~~ the applicable standard have been achieved. Determination of whether the operation and maintenance procedures are being used will be based on information available to the department, which may include monitoring results; review of operation and maintenance procedures, including the startup, shutdown and malfunction plan required in par. (c); review of operation and maintenance records; and inspections of the source.

2. Malfunctions shall be corrected as soon as practicable after their occurrence in accordance with the startup, shutdown and malfunction plan required in par. (c). To the extent that an unexpected event arises during a startup,

shutdown or malfunction, an owner or operator shall comply by minimizing emissions during any startup, shutdown and malfunction event consistent with safety and good air pollution control practices.

SECTION 31. NR 460.05(4)(b) is repealed.

SECTION 32. NR 460.05(4)(c)1. is amended to read:

NR 460.05(4)(c)1. ~~In addition to the requirements of s. NR 439.11, the~~ The owner or operator of an affected source shall develop and implement a written startup, shutdown and malfunction plan that meets the requirements of s. NR 439.11 and describes, in detail, procedures for operating and maintaining the source during periods of startup, shutdown and malfunction and a program of corrective action for malfunctioning process and air pollution control and monitoring equipment used to comply with the relevant standard. ~~As required under s. NR 460.07(3)(a)1., the plan shall identify all routine or otherwise predictable continuous monitoring system malfunctions.~~ This plan shall be developed by the owner or operator by the source's compliance date for that relevant standard. ~~The plan shall be incorporated by reference into the source's part 70 permit.~~ The plan shall be designed to achieve all of the following:

SECTION 33. NR 460.05(4)(c)1. Note (intro.) is repealed.

SECTION 34. NR 460.05(4)(c)1. Note a. to c. are renumbered NR 460.05(4)(c)1.a. to c. and, as renumbered, NR 460.05(4)(c)1.a. and c. are amended to read:

NR 460.05(4)(c)1.a. Ensure that, at all times, ~~owners or operators operate and maintain affected sources,~~ the owner or operator operates and maintains each affected source, including associated air pollution control and monitoring equipment, in a manner ~~consistent with good air pollution control practices for minimizing emissions at least to the levels required by all relevant standards~~ which satisfies the general duty to minimize emissions established by par. (a)1.

c. Reduce the reporting burden associated with periods of startup, shutdown~~,~~ and malfunction ~~(~~ ,including corrective action taken to restore malfunctioning process and air pollution control equipment to its normal or usual manner of operation~~)~~.

SECTION 35. NR 460.05(4)(c)3. to 6. and 7.(intro.), b. and c. are amended to read:

NR 460.05(4)(c)3. When actions taken by the owner or operator during a startup, shutdown or malfunction, including actions taken to correct a malfunction, are consistent with the procedures specified in the affected source's startup, shutdown and malfunction plan, the owner or operator shall keep records for that event ~~that~~ which demonstrate that the procedures specified in the plan were followed. These records may take the form of a checklist, or other effective form of recordkeeping that confirms conformance with the startup, shutdown and malfunction plan for that event. In addition, the owner or operator shall keep records of these events as specified in s. NR 460.09(2)~~, and elsewhere in 40 CFR part 63 and in chs. NR 460 to 469~~, including records of the occurrence and duration of each startup, shutdown or malfunction of operation and each malfunction of the air pollution control and monitoring equipment. ~~Furthermore, the owner or operator shall confirm that actions taken during the relevant reporting period during periods of startup, shutdown and malfunction were consistent with the affected source's startup, shutdown and malfunction plan in the semiannual, or more frequent, startup, shutdown and malfunction report required in s. NR 460.09(4)(e).~~

4. If an action taken by the owner or operator during a startup, shutdown or malfunction, including an action taken to correct a malfunction, is not consistent with the procedures specified in the affected source's startup, shutdown and malfunction plan, and the source exceeds any applicable emission limitation in the relevant emission standard, then the owner or operator shall record the actions taken for that event and shall report the actions taken within 2 working days after commencing actions inconsistent with the plan, followed by a letter within 7 working days after the end of the event, in accordance with s. NR 460.09(4)(e), ~~unless the owner or operator makes alternative reporting arrangements, in advance, with the department under s. NR 460.09(4)(e)3.~~ including records of the occurrence and duration of each startup, shutdown or malfunction of operation and each malfunction of the air pollution control and monitoring equipment.

5. The owner or operator shall ~~keep the written~~ maintain at the affected source a current startup, shutdown and malfunction plan ~~on record after it is developed to be made available for inspection, upon request, by the department for the life of the affected source or until the affected source is no longer subject to the provisions of 40 CFR part 63~~ and shall make the plan available upon request for inspection and copying by the department. In addition, if the startup, shutdown and malfunction plan is ~~revised,~~ subsequently revised as provided in subd. 8., the owner or operator shall ~~keep~~ maintain at the affected source each previous ~~versions~~ version of the startup, shutdown and malfunction plan, and

shall make each previous version available for inspection and copying by the department for a period of 5 years after revision of the plan. If at any time after adoption of a startup, shutdown and malfunction plan ~~on record, to be made available for inspection, upon request, by the department, for a period of 5 years after each revision to the plan.~~ the affected source ceases operation or is otherwise no longer subject to the provisions of 40 CFR part 63, the owner or operator shall retain a copy of the most recent plan for 5 years from the date the source ceases operation or is no longer subject to 40 CFR part 63 and shall make the plan available upon request for inspection and copying by the department. The department may at any time request in writing that the owner or operator submit a copy of any startup, shutdown and malfunction plan, or a portion of the plan, which is maintained at the affected source or in the possession of the owner or operator. Upon receipt of a request, the owner or operator shall promptly submit a copy of the requested plan, or a portion of the plan, to the department. The department shall request that the owner or operator submit a particular startup, shutdown and malfunction plan, or a portion of the plan, whenever a member of the public submits a specific and reasonable request to examine or to receive a copy of that plan or portion of the plan. The owner or operator may elect to submit the required copy of any startup, shutdown and malfunction plan to the department in an electronic format. If the owner or operator claims that any portion of a startup, shutdown and malfunction plan is confidential business information entitled to protection from disclosure under 114 (c) of the Act (42 USC 7414(c)) or 40 CFR 2.301, the material which is claimed as confidential shall be clearly designated in the submission.

6. To satisfy the requirements of this section to develop a startup, shutdown and malfunction plan, the owner or operator may use the affected source's standard operating procedures manual, or an occupational safety and health administration or other plan, provided the alternative plans meet all the requirements of this section and are made available for inspection or submitted when requested by the department.

7.(intro.) ~~The~~ Based on the results of a determination made under par. (a)1., the department may require that an owner or operator of an affected source make changes to the startup, shutdown and malfunction plan for that source. The department ~~may require reasonable~~ shall require appropriate revisions to a startup, shutdown and malfunction plan, if the department finds that the plan does any of the following:

b. Fails to provide for the operation of the source, including associated air pollution control and monitoring equipment, during a startup, shutdown or malfunction event in a manner consistent with ~~good air pollution control practices for minimizing emissions at least to the levels required by all relevant standards~~ the general duty to minimize emissions established by par. (a)1.

c. Does not provide adequate procedures for correcting malfunctioning process and air pollution control and monitoring equipment as quickly as practicable.

SECTION 36. NR 460.05(4)(c)7.d. is created to read:

NR 460.05(4)(c)7.d. Includes an event that does not meet the definition of startup, shutdown or malfunction listed in s. NR 460.02(37r), (36) and (24c), respectively .

SECTION 37. NR 460.05(4)(c)8. is amended to read:

NR 460.05(4)(c)8. The owner or operator may periodically revise the startup, shutdown and malfunction plan for the affected source as necessary to satisfy the requirements of 40 CFR part 63 or to reflect changes in equipment or procedures at the affected source. Unless the department provides otherwise, the owner or operator may make the revisions to the startup, shutdown and malfunction plan without prior approval by the administrator or the department. However, each revision to a startup, shutdown and malfunction plan shall be reported in the semiannual report required by s. NR 460.09(4)(e). If the startup, shutdown and malfunction plan fails to address or inadequately addresses an event that meets the characteristics of a malfunction but was not included in the startup, shutdown and malfunction plan at the time the owner or operator developed the plan, the owner or operator shall revise the startup, shutdown and malfunction plan within 45 days after the event to include detailed procedures for operating and maintaining the source during similar malfunction events and a program of corrective action for similar malfunctions of process or air pollution control and monitoring equipment. In the event that the owner or operator makes any revision to the startup, shutdown and malfunction plan which alters the scope of the activities at the source which are deemed to be a startup, shutdown or malfunction, or otherwise modifies the applicability of any emission limit, work practice requirement, or other requirement in a standard established under 40 CFR part 63, the revised plan may not take effect until after the owner or operator has provided a written notice describing the revision to the department.

SECTION 38. NR 460.05(4)(c)9. is created to read:

NR 460.05(4)(c)9. The title V permit for an affected source shall require that the owner or operator adopt a startup, shutdown and malfunction plan which conforms to the provisions of this chapter, and that the owner or operator operate and maintain the source in accordance with the procedures specified in the current startup, shutdown

and malfunction plan. However, any revisions made to the startup, shutdown and malfunction plan in accordance with the procedures established by this chapter may not be deemed to constitute permit revisions under ch. NR 406 or 407. Moreover, none of the procedures specified by the startup, shutdown and malfunction plan for an affected source shall be deemed to fall within the permit shield provision in section 504(f) of the Act (42 USC 7661c(f)).

SECTION 39. NR 460.05(5) is amended to read:

NR 460.05(5) COMPLIANCE WITH NONOPACITY EMISSION STANDARDS. The nonopacity emission standards in 40 CFR part 63 or in chs. NR 460 to 469 shall apply at all times except during periods of startup, shutdown and malfunction, and as otherwise specified in an applicable subpart of 40 CFR part 63 or in an applicable provision of chs. NR 460 to 469. If a startup, shutdown or malfunction of one portion of an affected source does not affect the ability of particular emission points within other portions of the affected source to comply with the nonopacity emission standards set forth in this chapter, then those emission points shall still be required to comply with the nonopacity emission standards in 40 CFR part 63 or in chs. NR 460 to 469.

SECTION 40. NR 460.05(6)(a) is amended to read:

NR 460.05(6)(a) *Applicability.* The opacity and visible emission standards in 40 CFR part 63 and in chs. NR 460 to 469 shall apply at all times except during periods of startup, shutdown and malfunction, and as otherwise specified in an applicable subpart of 40 CFR part 63 or in an applicable provision of chs. NR 460 to 469. If a startup, shutdown or malfunction of one portion of an affected source does not affect the ability of particular emission points within other portions of the affected source to comply with the opacity and visible emission standards in 40 CFR part 63 or in chs. NR 460 to 469, then those emission points shall still be required to comply with the opacity and visible emission standards in 40 CFR part 63 or in chs. NR 460 to 469.

SECTION 41. NR 460.05(7)(c)1.b. is amended to read:

NR 460.05(7)(c)1.b. Any request under this subsection for an extension of ~~the~~ compliance ~~date of~~ with a relevant standard shall be submitted in writing to the department ~~not later than 12 months before the affected source's compliance date, as specified in subs. (2) and (3), for sources that are not including emission points in an emissions average, or not later than 18 months before the affected source's compliance date, as specified in subs. (2) and (3), for~~

~~sources that are including emission points in an emissions average~~ no later than 120 days prior to the affected source's compliance date, as specified in subs. (2) and (3), except as provided for in subd. 1.c. Non-frivolous requests submitted under this subsection will stay the applicability of the rule as to the emission points in question until the time the request is granted or denied. A denial will be effective as of the date of denial. Emission standards established under 40 CFR part 63 may specify alternative dates for the submittal of requests for ~~a~~ an extension of compliance ~~date extension~~ if alternatives are appropriate for the source categories affected by those standards.

SECTION 42. NR 460.05(7)(c)1.c. is created to read:

NR 460.07(c)1.c. An owner or operator may submit a compliance extension request after the date specified in subd. 1.b. provided the need for the compliance extension arose after that date, and before the otherwise applicable compliance date, and the need arose due to circumstances beyond reasonable control of the owner or operator. This request shall include, in addition to the information required in par. (e)1., a statement of the reasons additional time is needed and the date when the owner or operator first learned of the problems. Non-frivolous requests submitted under this subsection will stay the applicability of the rule as to the emission points in question until the time the request is granted or denied. A denial will be effective as of the original compliance date.

SECTION 43. NR 460.05(7)(c)2. is amended to read:

NR 460.05(7)(c)2. The owner or operator of an existing source unable to comply with a relevant standard established under 40 CFR part 63 pursuant to section 112(f) of the ~~act~~ Act (42 USC 7412(f)) may request that the department grant an extension allowing the source up to 2 years after the standard's effective date to comply with the standard. The department may grant an extension if it finds that the additional period is necessary for the installation of controls and that steps will be taken during the ~~extension~~ period of the extension to assure that ~~human~~ the health of persons will be protected from imminent endangerment. Any request for an extension of ~~the~~ compliance ~~date for~~ with a relevant standard under this subsection shall be submitted in writing to the department not later than ~~15~~ 90 calendar days after the effective date of the relevant standard.

SECTION 44. NR 460.05(7)(e)2.a. is repealed.

SECTION 45. NR 460.05(7)(e)2.b. is renumbered NR 460.05(7)(e)2.a. and amended to read:

NR 460.05(7)(e)2.a. The date by which on-site construction, installation of emission control equipment or a process change is planned to be initiated.

SECTION 46. NR 460.05(7)(e)2.c. is repealed.

SECTION 47. NR 460.05(7)(e)2.d. is is renumbered NR 460.05(7)(e)2.b.

SECTION 48. NR 460.05(7)(e) 3. and 4. are repealed.

SECTION 49. NR 460.05(7)(j)1. is amended to read:

NR 460.05(7)(j)1. The department shall notify the owner or operator in writing of approval or intention to deny approval of a request for ~~a compliance date extension~~ an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under par. (c)1. or (d). ~~The 30-day approval or denial period will begin after the owner or operator has been notified in writing that the application is complete.~~ The department shall notify the owner or operator in writing ~~as to~~ of the status of the application, that is, whether the application contains sufficient information to make a determination within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted. The 30-day approval or denial period shall begin after the owner or operator has been notified in writing that the application is complete.

SECTION 50. NR 460.05(7)(L) is amended to read:

NR 460.05(7)(L) The department may terminate ~~a~~ an extension of compliance ~~date extension~~ at an earlier date than specified if any specification under par. (h)3. or 4. is not met.

SECTION 51. NR 460.05(7)(L)1. and 2. are created to read:

NR 460.05(7)(L)1. Upon making a determination to terminate, the department shall notify, in writing, the owner or operator of the department's determination to terminate, together with both of the following:

a. Notice of the reason for termination.

b. Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after notification of the determination to terminate, additional information or arguments to the department before further action on the termination.

2. A termination of an extension of compliance shall be in writing and shall set forth the specific grounds on which the termination is based. The termination shall be made within 30 calendar days after presentation of additional information or arguments, or within 30 calendar days after the final date specified for the presentation if no presentation is made.

SECTION 52. NR 460.06(1)(b)(intro.) is renumbered and amended to read:

NR 460.06(1)(b)(intro.) If required to do performance testing by a relevant standard, and unless a waiver of performance testing is obtained under this section or the conditions of sub. (5) apply, the owner or operator of the affected source shall perform the tests ~~according to one of the following:~~ within 180 days of the compliance date.

SECTION 53. NR 460.06(1)(b)1. to 6. are repealed.

SECTION 54. NR 460.06(1)(b)7. is renumbered NR 460.06(1)(c) and amended to read:

NR 460.06(1)(c) ~~Within 180 days after the standard's effective date, or within 180 days after startup of the source, whichever is later, when~~ When an emission standard promulgated under 40 CFR part 63 is more stringent than the standard as proposed, ~~for~~ the owner or operator of a new or reconstructed source subject to that standard for which construction or reconstruction is commenced between the proposal and promulgation dates of the standard shall comply with performance testing requirements within 180 days after the standard's effective date, or within 180 days after startup of the source, whichever is later. If the promulgated standard is more stringent than the proposed standard, the owner or operator may choose to demonstrate compliance with either the proposed or the promulgated standard. If the owner or operator chooses to comply with the proposed standard initially, the owner or operator shall conduct a second performance test within 3 years and 180 days after the effective date of the standard, or after startup of the source, whichever is later, to demonstrate compliance with the promulgated standard.

SECTION 55. NR 460.06(4)(b)1. and 2. are amended to read:

NR 460.06(4)(b)1.The department specifies or approves, in specific cases, the use of a ~~minor change to a~~ test method with minor changes in methodology. Changes may be approved in conjunction with approval of the site-specific test plan specified in sub. (2).

2. The department approves the use of an intermediate change or alternative, or the administrator approves the use of a major change or alternative to a test method, the results of which the department or administrator has determined to be adequate for indicating whether a specific affected source is in compliance.

SECTION 56. NR 460.06(4)(b)3. is repealed.

SECTION 57. NR 460.06(4)(b)3. Note is renumbered NR 460.06(4)(b)2. Note.

SECTION 58. NR 460.06(4)(b)4. is renumbered NR 460.06(4)(b)3. and amended to read:

NR 460.06(4)(b)3. The department approves shorter sampling times ~~and~~ or smaller sample volumes when necessitated by process variables or other factors.

SECTION 59. NR 460.06(4)(b)5. is renumbered NR 460.06(4)(b)4.

SECTION 60. NR 460.06(5)(a) and (b)1. and 2. are amended to read:

NR 460.06(5)(a) Until ~~permission to use an alternative test method has been granted by the administrator or the department under this subsection,~~ authorized to use an intermediate or major change or alternative to a test method, the owner or operator of an affected source remains subject to the requirements of this section and the relevant standard.

(b)1. Notifies the department of his or her intention to use an alternative test method ~~not later than with the submittal of the site-specific test plan~~ at least 60 days before the performance test is scheduled to begin.

2. Uses Method 301 in Appendix A of 40 CFR part 63, incorporated by reference in s. NR 484.04(25), to validate the alternative test method. This may include the use of specific procedures of Method 301 if use of the procedures is sufficient to validate the alternative test method.

SECTION 61. NR 460.06(5)(b)4. is repealed.

SECTION 62. NR 460.06(5)(c) is amended to read:

NR 460.06(5)(c) The department shall determine whether the owner or operator's validation of ~~a~~ the proposed ~~intermediate~~ alternative test method is adequate ~~when~~ and issue an approval or disapproval of the alternative test method. If the owner or operator intends to demonstrate compliance by using an alternative to any test method specified in the relevant standard, the owner or operator is authorized to conduct the performance test using an alternative test method after the department approves ~~or disapproves~~ the use of the alternative method. However, the owner or operator is authorized to conduct the performance test using an alternative method in the absence of notification of approval or disapproval 45 days after submission of the request to use an alternative method and the request satisfies the requirements in par. (b). The owner or operator is authorized to conduct the performance test within 60 calendar days after authorization to demonstrate compliance using an alternative test method. Notwithstanding the requirements in the preceding 3 sentences, the owner or operator may proceed to conduct the performance test as required in this section, without the department's prior approval of the site-specific test plan ~~required under sub. (2). If the department finds reasonable grounds to dispute the results obtained by the Method 301 validation process, the department may require the use of a test method specified in a relevant standard~~, if the owner or operator subsequently chooses to use the specified testing and monitoring methods instead of an alternative.

SECTION 63. NR 460.07(2)(a)(intro.) and 2. and (b)1. and 2.(intro.) are amended to read:

NR 460.07(2)(a)(intro.) Except as provided in par. (am), monitoring shall be conducted as set forth in this section and the relevant standards unless the department or the administrator does any of the following:

2. Approves the use of ~~alternatives~~ an intermediate or major change or alternative to any monitoring requirements or procedures.

(b)1. When the ~~effluents from a single affected source, or~~ emissions from 2 or more affected sources~~,~~ are combined before being released to the atmosphere, the owner or operator ~~shall~~ may install an applicable continuous monitoring system ~~on each effluent~~ for each emission stream or for the combined emissions streams, provided the monitoring is sufficient to demonstrate compliance with the relevant standard.

2.(intro.) If the relevant standard is a mass emission standard and the ~~effluent~~ emissions from one affected source ~~is~~ are released to the atmosphere through more than one point, the owner or operator shall install an applicable continuous monitoring system at each emission point unless the installation of fewer systems is any of the following:

SECTION 64. NR 460.07(2)(b)2.b. Note is created to read:

NR 460.07(2)(b)2.b. Note: For example, instead of requiring that a CMS be installed at each emission point before the emissions from those points are channeled to a common control device, the standard specifies that only one CMS is required to be installed at the vent of the control device.

SECTION 65. NR 460.07(3)(a)1. is amended to read:

NR 460.07(3)(a)1. The owner or operator of an affected source shall ~~ensure the immediate repair or replacement of CMS parts to correct "routine" or otherwise predictable CMS malfunctions as defined in the source's startup, shutdown and malfunction plan required by s. NR 460.05(4)(c). The owner or operator shall keep the necessary parts for routine repairs of the affected equipment readily available. If the plan is followed and the CMS repaired immediately, this action shall be reported in the semiannual startup, shutdown and malfunction report required under s. NR 460.09(4)(e)~~ maintain and operate each CMS as specified in s. NR 460.05(4)(a).

SECTION 66. NR 460.07(3)(a)2. and 3. are repealed and recreated to read:

NR 460.07(3)(a)2. The owner or operator shall keep the necessary parts for routine repairs of the affected CMS equipment readily available.

3. The owner or operator of an affected source shall develop and implement a written startup, shutdown and malfunction plan for CMS as specified in s. NR 460.05(4)(c).

SECTION 67. NR 460.07(3)(b) is renumbered 460.07(3)(b)1.

SECTION 68. NR 460.07(3)(b)2. is created to read:

NR 460.07(3)(b)2. Unless the individual standard states otherwise, the owner or operator shall ensure the read out, which is the portion of the CMS that provides a visual display or record, or other indication of operation, from any

CMS required for compliance with the emission standard is readily accessible on site for operational control or inspection by the operator of the equipment.

SECTION 69. NR 460.07(3)(f) is amended to read:

NR 460.07(3)(f) The owner or operator of a CMS that is not a CPMS, which is installed in accordance with the provisions of 40 CFR part 63 and the applicable CMS performance specifications, shall check the zero (low-level) and high-level calibration drifts at least once daily in accordance with the written procedure specified in the performance evaluation plan developed under sub. (5)(c)1. and 2. The zero (low-level) and high-level calibration drifts shall be adjusted, at a minimum, whenever the 24-hour zero (low-level) drift exceeds 2 times the limits of the applicable performance specifications in the relevant standard. The system shall allow the amount of excess zero (low-level) and high-level drift measured at the 24-hour interval checks to be recorded and quantified, whenever specified. For COMS, all optical and instrumental surfaces exposed to the effluent gases shall be cleaned prior to performing the zero (low-level) and high-level drift adjustments; the optical surfaces and instrumental surfaces shall be cleaned when the cumulative automatic zero compensation, if applicable, exceeds 4% opacity. The CPMS shall be calibrated prior to use for the purposes of complying with this section. The CPMS shall be checked daily for indication that the system is responding. If the CPMS system includes an internal system check, results shall be recorded and checked daily for proper operation.

SECTION 70. NR 460.07(6)(c)(title), 1. and 2. are amended to read:

NR 460.07(6)(c)(title) *Request to use alternative monitoring ~~method~~ procedure*. 1. An owner or operator who wishes to use ~~a minor or intermediate~~ an alternative monitoring ~~method~~ procedure shall submit an application to the department as described in subd. 2. The application may be submitted at any time provided that the monitoring ~~method~~ procedure is not the performance test method used to demonstrate compliance with a relevant standard or other requirement. If the alternative monitoring procedure will serve as the performance test method that is to be used to demonstrate compliance with a relevant standard, the application shall be submitted ~~not later than with the site-specific test plan required under s. NR 460.06(2) or with the site-specific performance evaluation plan or~~ at least 60 days before the performance evaluation is scheduled to begin and shall meet the requirements for an alternative test method under s. NR 460.06(5).

2. The application shall contain a description of the proposed alternative monitoring system which addresses the 4 elements contained in the definition of monitoring in s. NR 460.02(24w) and a performance evaluation test plan, if required, as specified in sub. (5)(c). In addition, the application shall include information justifying the owner or operator's request for an alternative monitoring procedure, such as the technical or economic infeasibility, or the impracticality, of the affected source using the required method.

SECTION 71. NR 460.07(6)(c)4. is created to read:

NR 460.07(6)(c)4. Application for minor changes to monitoring procedures, as specified in sub. (2)(a), may be made in the site-specific performance evaluation plan.

SECTION 72. NR 460.07(6)(d)(title) and 1.(intro.) are amended to read:

NR 460.07(6)(d)(title) *Approval of request to use alternative monitoring ~~method~~ procedure*.

1.(intro.) The department shall notify the owner or operator of approval or intention to deny approval of the request to use an alternative monitoring ~~method~~ procedure within 30 calendar days after receipt of the original request and within 30 calendar days after receipt of any supplementary information that is submitted. If a request for a minor change is made in conjunction with the site-specific performance evaluation plan, approval of the plan shall constitute approval of the minor change. Before disapproving any request to use an alternative monitoring method, the department shall notify the applicant of the department's intention to disapprove the request together with all of the following:

SECTION 73. NR 460.07(7)(a) is amended to read:

NR 460.07(7)(a) The owner or operator of each CMS shall reduce the monitoring data as specified in this subsection. ~~In addition, each relevant standard may contain additional requirements for reducing monitoring data. When additional requirements are specified in a relevant standard, the standard will identify any unnecessary or duplicated requirements in this subsection that the owner or operator need not comply with.~~

SECTION 74. NR 460.08(2)(b)4. is amended to read:

NR 460.08(2)(b)4. A brief description of the nature, size, design, and method of operation of the source, ~~including its operating design capacity~~ and an identification of ~~each point of emission for each hazardous air pollutant,~~

~~or if a definitive identification is not yet possible, a preliminary identification of each point of emission for each hazardous air pollutant~~ the types of emission points within the affected source subject to the relevant standard and types of hazardous air pollutants emitted.

SECTION 75. NR 460.08(2)(c) is repealed.

SECTION 76. NR 460.08(2)(d)(intro.) and 1. are amended to read:

NR 460.08(2)(d)(intro.) The owner or operator of a new or reconstructed major affected source ~~that has an initial startup after the effective date of a relevant standard under 40 CFR part 63 and~~ for which an application for approval of construction or reconstruction is required under ~~ch. NR 406~~ s. 285.61(1), Stats., shall provide all of the following information in writing to the department:

1. A notification of intention to construct a new major affected source, reconstruct a major affected source, or reconstruct a major source such that the source becomes a major affected source with the application for approval of construction or reconstruction as specified in s. 285.61(1), Stats.

SECTION 77. NR 460.08(2)(d)2. and 3. are repealed.

SECTION 78. NR 460.08(2)(e) is amended to read:

NR 460.08(2)(e) ~~After the effective date of any relevant standard established under 40 CFR part 63, an owner or operator who intends~~ The owner or operator of a new or reconstructed affected source for which an application for approval of construction or reconstruction is not required under s. NR 406.03 shall provide all of the following information in writing to the department:

1. A notification of intention to construct a new affected source ~~or,~~ reconstruct an affected source ~~subject to the standard,~~ or reconstruct a source such that ~~it~~ the source becomes an affected source ~~subject to the standard, shall notify the department, in writing, of the intended construction or reconstruction. The notification shall be submitted as soon as practicable before the construction or reconstruction is planned to commence, but no sooner than the effective date of the relevant standard, if the construction or reconstruction commences after the effective date of a relevant standard promulgated in 40 CFR part 63. The~~

2. A notification ~~shall be submitted as soon as practicable before startup but no later than 60 days after the effective date of a relevant standard promulgated in 40 CFR part 63 if the construction or reconstruction had commenced and initial startup had not occurred before the standard's effective date. The~~ of the actual date of startup of the source, delivered or postmarked within 15 calendar days after that date.

3. Unless the owner or operator has requested and received prior permission from the department to submit less than the information in s. 285.61(1), Stats., the notification shall include ~~all~~ the information required ~~for an application for approval of construction or reconstruction as specified in ch. NR 406. For major sources,~~ on the application for approval of construction or reconstruction ~~may be used to fulfill the requirements of this subsection~~ as specified in s. 285.61(1), Stats.

SECTION 79. NR 460.08(8)(b)1.e. and 2. are amended to read:

NR 460.08(8)(b)1.e. ~~An~~ If the relevant standard applies to both major and area sources, an analysis demonstrating whether the affected source is a major ~~source or an area~~ source, using the emissions data generated for this notification.

2. The notification shall be sent before the close of business on the 60th day following the completion of the relevant compliance demonstration activity specified in the relevant standard, unless a different reporting period is specified in ~~a relevant~~ the standard, in which case the letter shall be sent before the close of business on the day the report of the relevant testing or monitoring results is required to be delivered or postmarked. For example, the notification shall be sent before close of business on the 60th, or other required, day following completion of the initial performance test and again before the close of business on the 60th, or other required, day following the completion of any subsequent required performance test. If no performance test is required but opacity or visible emission observations are required to demonstrate compliance with an opacity or visible emission standard under 40 CFR part 63 or chs. NR 460 to 469, the notification of compliance status shall be sent before close of business on the 30th day following the completion of opacity or visible emission observations. Notifications may be combined as long as the due date requirement for each notification is met.

SECTION 80. NR 460.09(2)(a) title and (2)(b) title are created to read:

NR 460.09(2)(a) *General.*

(b) *Recordkeeping requirements*.

SECTION 81. NR 460.09(2)(b)2. to 5. and (c) are amended to read:

NR 460.09(2)(b)2. The occurrence and duration of each malfunction of the required air pollution control and monitoring equipment.

3. All required maintenance performed on the air pollution control and monitoring equipment.

4. Actions taken during periods of startup, shutdown and malfunction, including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation, when actions are different from the procedures specified in the affected source's startup, shutdown and malfunction plan, required in s. NR 460.05(4)(c).

5. All information necessary to demonstrate conformance with the affected source's startup, shutdown and malfunction plan, required in s. NR 460.05(4)(c), when all actions taken during periods of startup, shutdown and malfunction, including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation, are consistent with the procedures specified in the plan. The information needed to demonstrate conformance with the startup, shutdown and malfunction plan may be recorded using a checklist or some other effective form of recordkeeping, in order to minimize the recordkeeping burden for conforming events.

(c) (title) *Recordkeeping requirements for applicability determinations.* If an owner or operator determines that his or her stationary source that emits, or has the potential to emit, without considering controls, one or more hazardous air pollutants ~~is not subject to a relevant~~ regulated by any standard established pursuant to section 112(d) or (f) of the Act (42 USC 7412(d) or (f)), and that stationary source is in the source category regulated by the relevant standard, but that source is not subject to the relevant standard or other requirement established under 40 CFR part 63 or chs. NR 460 to 469, because of limitations on the source's potential to emit or an exclusion, the owner or operator shall keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination shall be signed by the person making the determination and include an analysis or other information that demonstrates why the owner or operator believes the source is not an affected source. ~~The source might be an area source, for example.~~ The analysis or other information shall be sufficiently detailed to

allow the department to make a finding about the source's applicability status with regard to the relevant standard or other requirement. If relevant, the analysis shall be performed in accordance with requirements established in relevant subparts of 40 CFR part 63 for this purpose for particular categories of stationary sources. If relevant, the analysis should be performed in accordance with EPA guidance materials published to assist sources in making applicability determinations under section 112 of the ~~act~~ Act (42 USC 7412), if any. The requirements to determine applicability of a standard under 40 CFR 63.1(b)(3) and to record the results of that determination under this paragraph do not by themselves create an obligation for the owner or operator to obtain a title V permit.

SECTION 82. NR 460.09(4)(a) and (e)1. and 2. are amended to read:

NR 460.09(4)(a) *General.* Notwithstanding the requirements in this subsection or sub. (5), and except as provided in s. NR 460.11, the owner or operator of an affected source subject to reporting requirements under 40 CFR part 63 or under chs. NR 460 to 469 shall submit reports to the department in accordance with the reporting requirements in the relevant standards.

(e)1. `Periodic reports.' If actions taken by an owner or operator during a startup, shutdown or malfunction of an affected source, including actions taken to correct a malfunction, are consistent with the procedures specified in the source's startup, shutdown and malfunction plan, the owner or operator shall state the information in a startup, shutdown and malfunction report. The report shall identify any instance where any action taken by an owner or operator during a startup, shutdown or malfunction, including actions taken to correct a malfunction, is not consistent with the affected source's startup, shutdown and malfunction plan, but the source does not exceed any applicable emission limitation in the relevant emission standard. The report shall also include the number, duration and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. Reports shall only be required if a startup, shutdown or malfunction occurred during the reporting period. The startup, shutdown and malfunction report shall consist of a letter, containing the name, title and signature of the owner or operator or other responsible official who is certifying its accuracy, that shall be submitted to the department semiannually, or on a more frequent basis if specified otherwise in a relevant standard or as established otherwise in the source's part 70 permit. The startup, shutdown and malfunction report shall be delivered or postmarked by the 30th day following the end of each calendar half, or other calendar reporting period, as appropriate. If the owner or operator is required to submit excess emissions and continuous

monitoring system performance, or other periodic, reports under 40 CFR part 63 or chs. NR 460 to 469, the startup, shutdown and malfunction reports required under this subsection may be submitted simultaneously with the excess emissions and continuous monitoring system performance or other reports. If startup, shutdown and malfunction reports are submitted with excess emissions and continuous monitoring system performance or other periodic reports, and the owner or operator receives approval to reduce the frequency of reporting for the latter under sub. (5), the frequency of reporting for the startup, shutdown and malfunction reports also may be reduced if the department does not object to the intended change. The procedures to implement ~~this reduced frequency of reporting~~ the allowance in the preceding sentence shall be the same as the procedures specified in sub. (5)(c).

2. `Immediate reports.' Notwithstanding the allowance to reduce the frequency of reporting for periodic startup, shutdown and malfunction reports under subd. 1., any time an action taken by an owner or operator during a startup, shutdown or malfunction, including actions taken to correct a malfunction, is not consistent with the procedures specified in the affected source's startup, shutdown and malfunction plan, and the source exceeds any applicable emission limitation in the relevant emission standard, the owner or operator shall report the actions taken for that event within 2 working days after commencing actions inconsistent with the plan followed by a letter within 7 working days after the end of the event. The immediate report required under this subdivision shall consist of a telephone call or facsimile (FAX) transmission to the department within 2 working days after commencing actions inconsistent with the plan, and it shall be followed by a letter, delivered or postmarked within 7 working days after the end of the event, that contains the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy, explaining the circumstances of the event, the reasons for not following the startup, shutdown and malfunction plan, and ~~whether any~~ describing all excess emissions or parameter monitoring exceedances or both which are believed to have occurred.

SECTION 83. NR 460.09(5)(c)1.c. is created to read:

NR 460.09(5)(c)1.c. The affected source is complying with the Performance Track provisions of s. NR 460.11, which allows less frequent reporting.

SECTION 84. NR 460.11 is created to read:

NR 460.11 Performance track provisions. (1) Notwithstanding any other requirements in 40 CFR part 63 or chs. NR 460 to 469, an affected source at any major source or any area source at a performance track member facility, as defined in s. NR 460.02(37g), which is subject to regular periodic reporting under any relevant standard, may submit periodic reports at an interval that is twice the length of the regular period specified in the applicable standards provided, that for sources subject to permits under ch. NR 406 or 407, no interval for any report of the results of any required monitoring may be less frequent than once in every 6 months.

(2) Notwithstanding any other requirements in 40 CFR part 63 or chs. NR 460 to 469, the modifications of reporting requirements in sub. (3) apply to any major source at a performance track member facility, as defined in s. NR 460.02(37g), which is subject to requirements under any relevant standard and which has done all of the following:

(a) Reduced its total HAP emissions to less than 25 tons per year.

(b) Reduced its emissions of each individual HAP to less than 10 tons per year.

(c) Reduced emissions of all HAPs covered by each MACT standard to at least the level required for full compliance with the applicable emission standard.

(3) For affected sources at any area source at a performance track member facility, as defined in s. NR 460.02(37g), that meet the requirements of sub. (2)(c), or for affected sources at any major source that meet the requirements of sub. (2):

(a) If the emission standard to which the affected source is subject is based on add-on control technology, and the affected source complies by using add-on control technology, all required reporting elements in the periodic report may be met through an annual certification that the affected source is meeting the emission standard by continuing to use that control technology. The affected source shall continue to meet all relevant monitoring and recordkeeping requirements. The compliance certification shall meet the requirements delineated in Clean Air Act section 114(a)(3).

(b) If the emission standard to which the affected source is subject is based on add-on control technology, and the affected source complies by using pollution prevention, all required reporting elements in the periodic report may be met through an annual certification that the affected source is continuing to use pollution prevention to reduce HAP emissions to levels at or below those required by the applicable emission standard. The affected source shall maintain records of all calculations that demonstrate the level of HAP emissions required by the emission standard as well as the level of HAP emissions achieved by the affected source. The affected source shall continue to meet all relevant

monitoring and recordkeeping requirements. The compliance certification shall meet the requirements delineated in Clean Air Act section 114(a)(3).

(c) If the emission standard to which the affected source is subject is based on pollution prevention, and the affected source complies by using pollution prevention and reduces emissions by an additional 50% or greater than required by the applicable emission standard, all required reporting elements in the periodic report may be met through an annual certification that the affected source is continuing to use pollution prevention to reduce HAP emissions by an additional 50% or greater than required by the applicable emission standard. The affected source shall maintain records of all calculations that demonstrate the level of HAP emissions required by the emission standard as well as the level of HAP emissions achieved by the affected source. The affected source shall continue to meet all relevant monitoring and recordkeeping requirements. The compliance certification shall meet the requirements delineated in Clean Air Act section 114(a)(3).

(d) Notwithstanding the provisions of pars. (a) to (c), for sources subject to permits under ch. NR 406 or 407, the results of any required monitoring and recordkeeping shall be reported not less frequently than once in every 6 months.

SECTION 85. NR 460 Appendix N is amended to read:

Chapter NR 460

Appendix N

General Provisions Applicability to Chapter NR 463 Subchapter I

General Provisions Reference	Applies to Chapter NR 463 Subchapter I?	Comment
NR 439.07(2) (cited in s. NR 460.06(2))	No	Section NR ~~463.12~~ 463.106(4) requires notification prior to the performance test. Section NR 463.09(1) requires submission of a site-specific test plan upon request.
NR 439.07(3)	Yes	
NR 439.07(4)	Yes	
NR 439.07(6)(a)	No	Section NR 463.09(1) specifies what the test plan should contain, but does not require test plan approval or performance audit samples.
NR 439.07(6) (intro.) and (b) to (d)	Yes	

Appendix N (continued)
General Provisions Applicability to Chapter NR 463 Subchapter I

General Provisions Reference	Applies to Chapter NR 463 Subchapter I?	Comment
NR 460.01(1)(a)	Yes	Subchapter I of ch. NR 463 and this appendix clarify the applicability of each paragraph in ch. NR 460 to sources subject to subchapter I of ch. NR 463.
NR 460.02	Yes	Additional terms are defined in s. NR 463.02; when overlap between ss. NR 460.02 and 463.02 occurs, s. NR 463.02 takes precedence.
NR 460.03	Yes	Other units used in subchapter I of ch. NR 463 are defined in that ~~chapter~~ subchapter.
NR 460.04	Yes	
NR 460.05(1)	Yes	
NR 460.05(2)(a)-(b)	Yes	Except replace "source" with "affected source."
NR 460.05(2)(c)-(d)	Yes	
NR 460.05(2)(e)	Yes	Except replace "source" with "affected source."
NR 460.05(2)(f)	No	Provisions for new area sources that become major sources are contained in s. NR 463.06(1)(d).
NR 460.05(3)(a)-(b)	Yes	Except replace "source" with "affected source."
NR 460.05(3)(c)	No	Compliance provisions for existing area sources that become major sources are contained in s. NR 463.06(1)(c).
NR 460.05(4)	No	Section NR 463.05 contains work practice standards (operation and maintenance requirements) that override these provisions.
NR 460.05(5)	No	Section NR 463.04(2) specifies when the standards apply.
NR 460.05(6)	No	Subchapter I of ch. NR 463 does not contain any opacity or visible emission standards.
NR 460.05(7)(a)	Yes	
NR 460.05(7)(b)	Yes	Except replace "source" with "affected source."
NR 460.05(7)(c)1.	No	Section NR 463.06(2) specifies the procedures for obtaining a compliance date extension and the date by which such requests must be submitted.
NR 460.05(7)(c)2.	Yes	
NR 460.05(7)(d)	Yes	
NR 460.05(7)(e)1.	Yes	This subdivision only references s. NR 460.05(7)(c) for compliance date extension provisions~~. But~~, but s. NR 463.06(2) also contains provisions for requesting a compliance date extension.
NR 460.05(7)(e)2.	Yes	
NR 460.05(7)(f)	Yes	
NR 460.05(7)(g)	Yes	This paragraph only references ss. NR 460.05(7)(c) to (e) for compliance date extension provisions, but s. NR 463.06(2) also contains provisions for requesting a compliance date extension.
NR 460.05(7)(h)1. to 4.	Yes	

Appendix N (continued)
General Provisions Applicability to Chapter NR 463 Subchapter I

General Provisions Reference	Applies to Chapter NR 463 Subchapter I?	Comment
NR 460.05(7)(h)5.a.	Yes	This subdivision paragraph only references s. NR 460.05(7)(c) for compliance date extension provisions. But, but s. NR 463.06(2) also contains provisions for requesting a compliance date extension.
NR 460.05(7)(h)5.b.	Yes	
NR 460.05(7)(i)	Yes	
NR 460.05(7)(j)1.	Yes	This subdivision only references s. NR 460.05(7)(c)1. or (d) for compliance date extension provisions. But, but s. NR 463.06(2) also contains provisions for requesting a compliance date extension.
NR 460.05(7)(j)2.-3.	Yes	
NR 460.05(7)(k)	Yes	
NR 460.05(7)(L)	Yes	
NR 460.06(1)(a)	Yes	
NR 460.06(1)(b)	Yes	
NR 460.06(2)	See NR 439.07	
NR 460.06(3)	Yes	Except replace "source" with "affected source."
NR 460.06(4)	Yes	Subchapter I of ch. NR 463 also contains test methods specific to affected sources covered by that chapter subchapter.
NR 460.06(5)	Yes	
NR 460.06(6)(a)	No	Subchapter I of ch. NR 463 identifies the items to be reported in the compliance test (s. NR 463.09(1)) and the time frame for submitting the results (s. NR 463.12 463.106(6)).
NR 460.06(6)(b)	Yes	
NR 460.06(7)(a)-(b)	Yes	
NR 460.06(7)(c)1.	Yes	This subdivision only references s. NR 460.05(7) for compliance date extension provisions. But, but s. NR 463.06(2) also contains provisions for requesting a compliance date extension.
NR 460.06(7)(c)2.-3.	Yes	
NR 460.06(7)(d)-(e)	Yes	
NR 460.07(1)(a)	Yes	
NR 460.07(1)(b)	No	Work practice standards are contained in s. NR 463.05.
NR 460.07(1)(c)	No	
NR 460.07(2)(a)	Yes	
NR 460.07(2)(b)	No	Section NR 463.09(4) specifies the monitoring location when there are multiple sources.
NR 460.07(2)(c)	No	Section NR 463.12 463.106(7)(d) identifies reporting requirements when multiple monitors are used.

Appendix N (continued)
General Provisions Applicability to Chapter NR 463 Subchapter I

General Provisions Reference	Applies to Chapter NR 463 Subchapter I?	Comment
NR 460.07(3)(a)1.	No	Subchapter I of ch. NR 463 requires proper maintenance of monitoring devices expected to be used by sources subject to ch. NR 463 subch. I.
NR 460.07(3)(a)2.	No	Section NR 463.05(2)(d) specifies reporting when the operation and maintenance plan is not followed.
NR 460.07(3)(a)3.	No	Section NR 463.05(1) identifies the criteria for whether operation and maintenance procedures are acceptable.
NR 460.07(3)(b)-(c)	No	Section NR 463.09(4)(b) requires appropriate use of monitoring devices.
NR 460.07(3)(d)-(g)	No	
NR 460.07(4)	No	Maintenance of monitoring devices is required by ss. NR 463.05 and 463.09(4)(b).
NR 460.07(5)	No	There are no performance evaluation procedures for the monitoring devices expected to be used to comply with subchapter I of ch. NR 463.
NR 460.07(6)(a)	No	Instances in which the department may approve alternatives to the monitoring methods and procedures are contained in s. NR 463.07(8).
NR 460.07(6)(b)	Yes	
NR 460.07(6)(c)	Yes	
NR 460.07(6)(d)	Yes	
NR 460.07(6)(e)	No	Subchapter I of ch. NR 463 does not require the use of CEM's.
NR 460.07(7)	No	Monitoring data does not need to be reduced for reporting purposes because subchapter I of ch. NR 463 requires measurement once/day.
NR 460.08(1)	Yes	
NR 460.08(2)(a)1.-2.	No	Section NR 463.06(1)(c) requires area sources to comply with major source provisions if an increase in HAP emissions causes them to become major sources.
NR 460.08(2)(a)3.	No	Section NR ~~463.12~~ 463.106(3)(b) specifies initial notification requirements for new or reconstructed affected sources.
NR 460.08(2)(b)	No	Section NR ~~463.12~~ 463.106(3)(a) specifies the information to be contained in the initial notification.
NR 460.08(2)(c)	No	Section NR ~~463.12~~ 463.106(3)(b) specifies notification requirements for new or reconstructed sources that are not major affected sources.
NR 460.08(2)(d)	No	
NR 460.08(2)(e)	No	
NR 460.08(3)	Yes	This subsection only references s. NR 460.05(7)(c) to (e) for compliance date extension provisions. ~~But~~, but s. NR 463.06(2) also contains provisions for requesting a compliance date extension. Subchapter I of ch. NR 463 provides a different time frame for submitting the request than s. NR 460.05(7)(c).

Appendix N (continued)
General Provisions Applicability to Chapter NR 463 Subchapter I

General Provisions Reference	Applies to Chapter NR 463 Subchapter I?	Comment
NR 460.08(4)	Yes	This subsection only references the notification dates established in s. NR 460.08(2). But, but s. NR 463.12 463.106 also contains notification dates.
NR 460.08(5)	No	Notification of performance test is required by s. NR 463.12 463.106(4).
NR 460.08(6)	No	
NR 460.08(7)	No	Subchapter I of ch. NR 463 does not require a performance evaluation or relative accuracy test for monitoring devices.
NR 460.08(8)(a)-(c)	No	Section NR 463.12 463.106(5) specifies information to be contained in the notification of compliance status and the time frame for submitting this information.
NR 460.08(8)(d)	No	Similar language has been incorporated into s. NR 463.12 463.106(4)(b)3.
NR 460.08(8)(e)	Yes	
NR 460.08(9)	Yes	
NR 460.08(10)	Yes	
NR 460.09(1)	Yes	
NR 460.09(2)(a)	Yes	
NR 460.09(2)(b)	No	Section NR 463.11 463.103(2) specifies the records that must be maintained.
NR 460.09(2)(c)	No	Subchapter I of ch. NR 463 applies to major and area sources.
NR 460.09(3)(a)	No	Applicable requirements of s. NR 460.09(3)(a) have been incorporated into s. NR 463.11 463.103(2).
NR 460.09(4)(a)	Yes	
NR 460.09(4)(b)	No	Section NR 463.12 463.106(6) specifies the time frame for reporting performance test results.
NR 460.09(4)(c)	No	Subchapter I of ch. NR 463 does not contain opacity or visible emissions standards.
NR 460.09(4)(d)	Yes	
NR 460.09(4)(e)	No	Sections NR 463.05(2)(d) and 463.12 463.106(7)(c) specify reporting associated with malfunctions.
NR 460.09(5)	No	Section NR 463.12 463.106(7) and (8) specifies the frequency of periodic reports of monitoring data used to establish compliance. Applicable requirements of s. NR 460.09(5) have been incorporated into subs. s. NR 463.106(7) and (8).
NR 460.09(6)	Yes	
NR 460.10	No	Flares are not a control option for complying with the emission limits under subchapter I of ch. NR 463.
NR 484.04	Yes	

SECTION 86. NR 463 (title) is repealed and recreated to read:

CHAPTER NR 463

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR METALS TREATING AND PROCESSING

SECTION 87. NR 463 Subchapter I (title) to follow NR 463 (title) and precede NR 463.01 is created to read:

Subchapter I - Chromium Emissions From Hard And Decorative Chromium Electroplating And Chromium Anodizing Tanks

SECTION 88. NR 463.02(intro.), (4) Note and (8) are amended to read:

NR 463.02 Definitions. (intro.) For terms not defined in this section, the definitions contained in chs. NR 400 and 460 apply to the terms used in this ~~chapter~~ subchapter, with definitions in ch. NR 460 taking priority over definitions in ch. NR 400. In addition, the definitions in this section apply to the terms used in this ~~chapter~~ subchapter. If this section defines a term which is also defined in ch. NR 400 or 460, the definition in this section applies in this ~~chapter~~ subchapter rather than the definition in ch. NR 400 or 460. In this subchapter:

(4) **Note:** Since for trivalent chromium baths, the bath composition is proprietary in most cases, the trade or brand name for each component may be used. However, ss. NR ~~463.11~~ 463.103(1)(n) and ~~463.12~~ 463.106(9)(a)3. require identification by chemical name of the wetting agent contained in that component.

(8) "~~Chromium electroplating tank" or "chromium~~ "Chromium anodizing tank" means the receptacle or container ~~in which hard or decorative chromium electroplating or chromium anodizing occurs~~ along with the following accompanying internal and external components needed for chromium anodizing: rectifiers fitted with controls to allow for voltage adjustments, heat exchanger equipment, circulation pumps and air agitation systems.

SECTION 89. NR 463.02(8m), (12m) and (22m) are created to read:

NR 463.02(8m) "Chromium electroplating tank" means the receptacle or container along with the following accompanying internal and external components needed for chromium electroplating: rectifiers, anodes, heat exchanger equipment, circulation pumps and air agitation systems.

(12m) "Enclosed hard chromium electroplating tank" means a chromium electroplating tank that is equipped with an enclosing hood and ventilated at half the rate or less than that of an open surface tank of the same surface area.

(22m) "Open surface hard chromium electroplating tank" means a chromium electroplating tank that is ventilated at a rate consistent with good ventilation practices for open tanks.

SECTION 90. NR 463.02(27) and (30) are amended to read:

NR 463.02 (27)"Stalagmometer" means ~~a device~~ an instrument used to measure the surface tension of a solution by determining the mass of a drop of liquid by weighing a known number of drops or by counting the number of drops obtained from a given volume of liquid.

(30) "Tensiometer" means ~~a device~~ an instrument used to measure the surface tension of a solution by determining the amount of force needed to pull a ring from the liquid surface. The amount of force is proportional to the surface tension.

SECTION 91. NR 463.04(3)(title) is amended to read:

NR 463.04(3)(title) STANDARDS FOR HARD CHROMIUM ELECTROPLATING ~~TANKS~~.

SECTION 92. NR 463.04(3)(a)(title) is created to read:

NR 463.04(3)(a)(title) *Open surface tanks*.

SECTION 93. NR 463.04(3)(a) is amended to read:

NR 463.04(3)(a) During tank operation, each owner or operator of an existing, new or reconstructed ~~hard chromium electroplating tank~~ affected source shall control chromium emissions discharged to the atmosphere from that affected source by ~~not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed~~ doing any of the following:

1. Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.015 milligrams of total chromium per dry standard cubic meter (mg/dscm) of ventilation air (6.6×10^{-6} grains per dry standard cubic foot (gr/dscf)) for all open surface hard chromium electroplating tanks that are affected sources other than those that are existing affected sources located at small hard chromium electroplating facilities.

2. Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.03 mg/dscm (1.3×10^{-5} gr/dscf) if the open surface hard chromium electroplating tank is an existing affected source and is located at a small, hard chromium electroplating facility.

SECTION 94. NR 463.04(3)(a)3. is created to read:

NR 463.04(3)(a)3. If a chemical fume suppressant containing a wetting agent is used, not allowing the surface tension of the electroplating or anodizing bath contained within the affected tank to exceed 45 dynes per centimeter (dynes/cm) (3.1×10^{-3} pound-force per foot (lb_f/ft)) as measured by a stalagmometer or 35 dynes/cm (2.4×10^{-3} lb_f/ft) as measured by a tensiometer at any time during tank operation.

SECTION 95. NR 463.04(3)(b) is renumbered NR 463.04(3)(c) and, as renumbered, NR 463.04(3)(c)1.a. and b. and 2. are amended to read:

NR 463.04(3)(c)1.a. If records show that the facility's previous annual actual rectifier capacity was less than 60 million A-hr/yr, by using nonresettable ampere-hour meters and keeping monthly records of actual ampere-hour usage for each 12-month rolling period following the compliance date in accordance with s. NR ~~463.11~~ 463.103(2)(L). The actual cumulative rectifier capacity for the previous 12-month rolling period shall be tabulated monthly by adding the capacity for the current month to the capacities for the previous 11 months.

b. By accepting a federally-enforceable limit on the maximum cumulative potential rectifier capacity of a hard chromium electroplating facility and by maintaining monthly records in accordance with s. NR ~~463.11~~ 463.103(2)(L) to demonstrate that the limit has not been exceeded. The actual cumulative rectifier capacity for the previous 12-month rolling period shall be tabulated monthly by adding the capacity for the current month to the capacities for the previous 11 months.

2. Once the monthly records required to be kept by s. NR ~~463.11~~ 463.103(2)(L) and by this paragraph show that the actual cumulative rectifier capacity over the previous 12-month rolling period corresponds to the large

designation, the owner or operator is subject to the emission limitation identified in par. (a)1. or 3. or (b)1., 3. or 4., in accordance with the compliance schedule of s. NR 463.06(1)(e).

SECTION 96. NR 463.04(3)(b) is created to read:

NR 463.04(3)(b) *Enclosed tanks.* During tank operation, each owner or operator of an existing, new or reconstructed affected source shall control chromium emissions discharged to the atmosphere from that affected source by doing any of the following:

1. Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.015 mg/dscm (6.6×10^{-6} gr/dscf) for all enclosed hard chromium electroplating tanks that are affected sources other than those that are existing affected sources at small, hard chromium electroplating facilities.

2. Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.03 mg/dscm (1.3×10^{-5} gr/dscf) if the enclosed hard chromium electroplating tank is an existing affected source and is located at a small, hard chromium electroplating facility.

3. If a chemical fume suppressant containing a wetting agent is used, not allowing the surface tension of the electroplating or anodizing bath contained within the affect tank to exceed 45 dynes/cm (3.1×10^{-3} lb_f/ft) as measured by a stalagmometer or 35 dynes/cm (2.4×10^{-3} lb_f/ft) as measured by a tensiometer at any time during tank operation.

4. Not allowing the mass rate of total chromium in the exhaust gas stream discharged to the atmosphere to exceed the maximum allowable mass emission rate determined by the using the calculation procedure in s. NR 463.09(6)(b) for all enclosed hard electroplating tanks that are affected sources other than those that are existing affected sources located at small, hard chromium electroplating facilities.

5. Not allowing the mass rate of total chromium in the exhaust gas stream discharged to the atmosphere to exceed the maximum allowable mass emission rate determined by using the calculation procedure in s. NR 463.09(6)(d) if the enclosed hard chromium electroplating tank is an existing affected sources and is located at a small, hard chromium electroplating facility.

SECTION 97. NR 463.04(3)(c)(title) is created to read:

NR 463.04(3)(c)(title) *Facility size.*

SECTION 98. NR 463.04(4)(b) and (5)(a) and (c) are amended to read:

NR 463.04(4)(b) If a chemical fume suppressant containing a wetting agent is used, by not allowing the surface tension of the electroplating or anodizing bath contained within the affected ~~source~~ tank to exceed 45 dynes per centimeter (dynes/cm) (3.1 x 10^{-3} pound-force per foot (lb_f/ft)) as measured by a stalagmometer or 35 dynes/cm (2.4 x 10^{-3} lb_f/ft) as measured by a tensiometer at any time during operation of the tank.

(5)(a) Each owner or operator of an existing, new or reconstructed decorative chromium electroplating tank that uses a trivalent chromium bath that incorporates a wetting agent as a bath ingredient is subject to the recordkeeping and reporting requirements of ss. NR ~~463.11~~ 463.103(2)(n) and ~~463.12~~ 463.106(9), but is not subject to the work practice requirements of s. NR 463.05, or the continuous compliance monitoring requirements in s. NR 463.07. The wetting agent shall be an ingredient in the trivalent chromium bath components purchased from vendors.

(c) Each owner or operator of an existing, new or reconstructed decorative chromium electroplating tank that had been using a trivalent chromium bath that incorporates a wetting agent and ceases using this type of bath shall fulfill the reporting requirements of s. NR ~~463.12~~ 463.106(9)(c) and comply with the applicable emission limitation within the time frame specified in s. NR 463.06(1)(f).

SECTION 99. NR 463.05(1)(d)2. and (2)(a)2. and 3. and (c) are amended to read:

NR 463.05(1)(d)2. Fails to provide for the proper operation of the affected source, the air pollution control techniques, or the control system and process monitoring equipment during a malfunction in a manner consistent with good air pollution control practices.

(2)(a)2. For sources using an add-on air pollution control device or monitoring equipment to comply with this ~~chapter~~ subchapter, the plan shall incorporate the work practice standards for that device or monitoring equipment, as identified in Table 1 of this ~~chapter~~ subchapter, if the specific equipment used is identified in Table 1.

3. If the specific equipment used is not identified in Table 1 of this subchapter, the plan shall incorporate proposed work practice standards. These proposed work practice standards shall be submitted to the department for approval as part of the submittal required under s. NR 463.08.

(c) Recordkeeping associated with the operation and maintenance plan is identified in s. NR ~~463.11~~ 463.103(2). Reporting associated with the operation and maintenance plan is identified in s. NR ~~463.12~~ 463.106(7) and (8) and par. (d).

SECTION 100. NR 463.06(1)(c) and (e) and (3)(b)1. and 3. are amended to read:

NR 463.06(1)(c) The owner or operator of an existing area source that increases actual or potential emissions of hazardous air pollutants such that the area source becomes a major source shall comply with the provisions for existing major sources, including the reporting provisions of s. NR ~~463.12~~ 463.106(7), immediately upon becoming a major source.

(e) An owner or operator of an existing hard chromium electroplating tank or tanks located at a small, hard chromium electroplating facility that increases its maximum cumulative potential rectifier capacity, or its actual cumulative rectifier capacity, such that the facility becomes a large, hard chromium electroplating facility shall comply with the requirements of s. NR 463.04(3)(a)1. for all hard chromium electroplating tanks at the facility no later than one year after the month in which monthly records required by ss. NR ~~463.04(3)(b)~~ 463.04(3)(c) and ~~463.11~~ 463.103(2)(L) show that the large designation is met, or by the compliance date specified in par. (a)2., whichever is later.

(3)(b)1. The affected source is a hard chromium electroplating tank, a decorative chromium electroplating tank or a chromium anodizing tank.

3. The owner or operator complies with the applicable surface tension limit of s. NR 463.04 (3)(a)3. or (b)3. or (4)(b) as demonstrated through the continuous compliance monitoring required by s. NR 463.07(5)(b).

SECTION 101. NR 463.07(1)(a) and (b) are amended to read:

NR 463.07(1)(a) During the initial performance test, the owner or operator of an affected source, or a group of affected sources under common control, complying with the emission limitations in s. NR 463.04 through the use of a composite mesh-pad system shall determine the outlet chromium concentration using the test methods and procedures in s. NR 463.09(3), and shall establish as a site-specific operating parameter the pressure drop across the system, setting the value that corresponds to compliance with the applicable emission limitation, using the procedures in s. NR 463.09(4)(e). An owner or operator may conduct multiple performance tests to establish a range of compliant pressure drop values, or may set as the compliant value the average pressure drop measured over the 3 test runs of one performance test and accept ± ~~1 inch~~ 2 inches of water column from this value as the compliant range.

(b) On and after the date on which the initial performance test is required to be completed under s. NR 460.06, the owner or operator of an affected source, or group of affected sources under common control, shall monitor and

record the pressure drop across the composite mesh-pad system once each day that any affected source is operating. To be in compliance with the standards in s. NR 463.04, the composite mesh-pad system shall be operated within ± ~~1 inch~~ 2 inches of water column of the pressure drop value established during the initial performance test, or shall be operated within the range of compliant values for pressure drop established during multiple performance tests.

SECTION 102. NR 463.07(1)(c) and (d) are created to read:

NR 463.07(1)(c) The owner or operator of an affected source complying with the emission limitation of s. NR 463.04 through the use of a composite mesh-pad system may repeat the performance test and establish as a new site-specific operating parameter the pressure drop across the composite mesh-pad system according to the requirements in par. (a) or (b). To establish a new site-specific operating parameter for pressure drop, the owner or operator shall satisfy all of the following requirements:

1. Determine the outlet chromium concentration using the test methods and procedures in s. NR 463.09(3).

2. Establish the site-specific operating parameter value using the procedures in s. NR 463.09(4).

3. Satisfy the recordkeeping requirements in s. NR 463.103.

4. Satisfy the reporting requirements in s. NR 463.106.

(d) The requirement to operate a composite mesh-pad system within the range of pressure drop values established under pars. (a) to (c) does not apply during the automatic-washdown cycles of the composite-mesh pad system.

SECTION 103. NR 463.07(5)(a) and (b)(intro.) and (7)(b) are amended to read:

NR 463.07 (5)(a) During the initial performance test, the owner or operator of an affected source complying with the emission limitations in s. NR 463.04 through the use of a wetting agent in the electroplating or anodizing bath shall determine the outlet chromium concentration using the procedures in s. NR 463.09(3). The owner or operator shall establish as the site-specific operating parameter the surface tension of the bath using Method 306B in Appendix A of 40 CFR part 63, incorporated by reference in s. NR 484.04 (25), setting the maximum value that corresponds to compliance with the applicable emission limitation. In lieu of establishing the maximum surface tension during the performance test, the owner or operator may accept 45 dynes/cm (3.1 x 10^{-3} pound-force per foot (lb_f /ft)) as measured by a stalagmometer or 35 dynes/cm (2.4 x 10^{-3} lb_f /ft) as measured by a tensiometer as the maximum surface tension

value that corresponds to compliance with the applicable emission limitation. However, the owner or operator is exempt from conducting a performance test only if the criteria of s. NR 463.06(3)(b) are met.

(b)(intro.) On and after the date on which the initial performance test is required to be completed under s. NR 460.06, the owner or operator of an affected source shall monitor the surface tension of the electroplating or anodizing bath. Operation of the affected source at a surface tension greater than the value established during the performance test or greater than 45 dynes/cm (3.1 x 10^{-3} lb_f /ft) as measured by a stalagmometer or 35 dynes/cm (2.4 x 10^{-3} lb_f /ft) as measured by a tensiometer if the owner or operator is using this value in accordance with par. (a), shall constitute noncompliance with the standards in s. NR 463.04. The surface tension shall be monitored according to the following schedule:

(7)(b) If the owner or operator of an affected source uses both a fume suppressant and add-on control device, but only one of these techniques is needed to comply with the applicable emission limit, monitoring requirements as identified in subs. (1) to (6), and work practice standards of Table 1 of this subchapter, apply only for the control technique used to achieve compliance.

SECTION 104. NR 463.09 (5)(e) is amended to read:

NR 463.09(5)(e) Each owner or operator that uses the special compliance provisions of this subsection to demonstrate compliance with the emission limitations of s. NR 463.04 shall submit the measurements and calculations to support these compliance methods with the notification of compliance status required by s. NR ~~463.12~~ 463.106(5).

SECTION 105. NR 463.09(6) is created to read:

NR 463.09(6) COMPLIANCE PROVISIONS FOR MASS RATE EMISSION STANDARD FOR ENCLOSED HARD CHROMIUM ELECTROPLATING TANKS. (a) This subsection identifies procedures for calculating the maximum allowable mass emission rate for owners or operators of affected sources who choose to meet the mass emission rate standard in s. NR 463.04(3)(b)4. or 5.

(b) The owner or operator of an enclosed hard chromium electroplating tank that is an affected source other than an existing affected source located at a small hard chromium electroplating facility who chooses to meet the mass emission rate standard in s. NR 463.04(3)(b)4. shall determine compliance by not allowing the mass rate of total

chromium in the exhaust gas stream discharged to the atmosphere to exceed the maximum allowable mass emission rate calculated using equation 9:

$$MAMER = ETSA \times K \times 0.015\ mg/dscm \qquad \text{Equation (9)}$$

where:

MAMER is the alternative emission rate for enclosed hard chromium electroplating tanks in mg/hr

ETSA is the hard chromium electroplating tank surface area in square feet (ft^2)

K is the conversion factor, 425 dscm/(ft^2 x hr)

(c) Compliance with the alternative mass emission limit in s. NR 463.04(3)(b)4. is demonstrated if the 3-run average mass emission rate determined from Method 306 in Appendix A of 40 CFR part 63, incorporated by reference in s. NR 484.04(25), testing is less than or equal to the maximum allowable mass emission rate calculated from equation 9 in par. (b).

(d) The owner or operator of an enclosed hard chromium electroplating tank that is an existing affected source located at a small hard chromium electroplating facility who chooses to meet the mass emission rate standard in s. NR 463.04(3)(b)5. shall determine compliance by not allowing the mass rate of total chromium in the exhaust gas stream discharged to the atmosphere to exceed the maximum allowable mass emission rate calculated using equation 10:

$$MAMER = ETSA \times K \times 0.03\ mg/dscm \qquad \text{Equation (10)}$$

where:

MAMER is the alternative emission rate for enclosed hard chromium electroplating tanks in mg/hr

ETSA is the hard chromium electroplating tank surface area in square feet (ft^2)

K is the conversion factor, 425 dscm/(ft^2 x hr)

(e) Compliance with the alternative mass emission limit in s. NR 463.04(3)(b)5. is demonstrated if the 3-run average mass emission rate determined from Method 306 in Appendix A of 40 CFR part 63, incorporated by reference in s. NR 484.04(25), testing is less than or equal to the maximum allowable mass emission rate calculated from equation 10 in par. (d).

SECTION 106. NR 463.11 is renumbered NR 463.103 and NR 463.103(2)(p), as renumbered, is amended to read:

NR 463.103(2)(p) All documentation supporting the notifications and reports required by ss. NR 460.08, 460.09 and ~~463.12~~ 463.106.

SECTION 107. NR 463.12 is renumbered NR 463.106.

SECTION 108. NR 466.09(1)(b) is amended to read:

NR 466.09(1)(b) The owner or operator has met the requirements of either s. NR 460.06(4)(b) ~~4.~~ 3. or (7).

SECTION 109. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 110. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 28, 2005.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By_____
Scott Hassett, Secretary

(SEAL)