

Chapter NR 445

CONTROL OF HAZARDOUS POLLUTANTS

Subchapter I — General Provisions

NR 445.01	Applicability; purpose.
NR 445.02	Definitions.
NR 445.03	General limitations.

Subchapter II — Emission Requirements, Review and Notifications for Stationary Sources of Hazardous Air Contaminants

NR 445.06	Safe harbor.
NR 445.07	Emission thresholds, standards, control requirements and exemptions.
NR 445.08	Compliance requirements.

NR 445.09	Fuel, control and compliance requirements for compression ignition internal combustion engines combusting fuel oil.
NR 445.10	Control and compliance requirements for the handling and storage of coal.
NR 445.11	Compliance requirements for sources of incidental emissions.
NR 445.12	Variations.
NR 445.13	Review of hazardous air contaminant requirements.
NR 445.14	Hazardous air contaminant studies.
NR 445.15	Additional provisions related to the control of hazardous air contaminants.
NR 445.16	Notice of hazardous substance air spills.

Note: Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, January, 1997, No. 493.

Subchapter I — General Provisions

NR 445.01 Applicability; purpose. (1) **APPLICABILITY.** (a) This chapter applies to all stationary air contaminant sources which may emit hazardous contaminants and to their owners and operators.

Note: Owners and operators of sources of emissions of hazardous air contaminants associated with agricultural waste should refer to s. NR 445.08 (6) (d) prior to undertaking any activities under this chapter.

(b) The emission limitations and control requirements in this chapter do not apply to hazardous air contaminants emitted by the emissions units, operations or activities that are regulated by an emission standard promulgated under section 112 of the Clean Air Act (42 USC 7412). Hazardous air contaminants “regulated by an emission standard promulgated under section 112 of the Act” means the hazardous air contaminants that are regulated by section 112 by the name of the contaminant, by virtue of regulation of another substance as a surrogate for the contaminant, or by virtue of regulation of a species or category of hazardous air contaminants that includes the contaminant.

Note: An example of regulated “by virtue of regulation of another substance as a surrogate” would be using the measurement of one contaminant to represent the emission rate of another, harder to measure contaminant. Examples of regulated “by virtue of the regulation of a species or category” would be the use of terms such as “volatile organic HAP” or “total HAP” emission in lieu of specifically naming individual hazardous air contaminants.

(2) **PURPOSE.** This chapter is adopted under ss. 285.11, 285.13, 285.17 and 285.27, Stats., to establish emission limitations for hazardous contaminants from stationary sources.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86; am. (1), Register, September, 1988, No. 393, eff. 10-1-88; am. (1), Register, May, 1992, No. 437, eff. 6-1-92; renum. (1) to (1) (a), cr. (1) (b), Register, December, 1994, No. 468, eff. 1-1-95; am. (1), Register, December, 1995, No. 480, eff. 1-1-96; am. (1) (a), Register, January, 1997, No. 493, eff. 2-1-97; CR 02-097; am. (1) (a) and (2), r. and rec. (1) (b) Register June 2004 No. 582, eff. 7-1-04.

NR 445.02 Definitions. The definitions contained in ch. NR 400 apply to the terms used in this chapter. In addition, the following definitions apply to the terms used in this chapter:

(1) “Agricultural waste” means livestock manure, wastewater contaminated with livestock manure, animal waste byproducts and litter and bedding material contaminated, derived or mixed with livestock manure.

(1m) “Best available control technology” or “BACT” means an emission limit for a hazardous air contaminant based on the maximum degree of reduction practically achievable as specified by the department on an individual case-by-case basis taking into account energy, economic and environmental impacts and other costs related to the source.

(2) “Certified control device” means a control device that is certified by either the California air resources board or the United States environmental protection agency.

(3) “Compression ignition internal combustion engine” or “CI engine” means an engine that has operating characteristics significantly similar to the theoretical diesel combustion cycle. The absence of a throttle to regulate intake air flow for controlling power during normal operation is indicative of a compression ignition engine. Combustion of the fuel in the engine proper is indicative of an internal combustion engine.

(4) “Downwash minimization stack height” means a stack height equal to $(H+1.5D)$ where H is the height of the structure and D is the lesser of the structure height or structure cross-wind horizontal dimension in the immediate vicinity of the stack.

(5) “Due diligence” means one of the following:

(a) A reasonable search and inquiry conducted by the owner or operator to identify and quantify emissions of hazardous air contaminants at the facility and determine which, if any, are subject to regulation under the provisions in subch. II and provisions identified in s. NR 445.06 (1) (a) to (e). The search and inquiry is reasonable if it entails an investigation of all facility operations that the owner or operator determines are likely to cause emissions of any hazardous air contaminant based on a substance listed in this chapter being any of the following:

1. Listed on an approved material safety data sheet or otherwise brought into the facility.

2. Reasonably expected to be created through a combustion process or a manufacturing process.

3. Contained in or created through the treatment or disposal of raw materials or waste.

(b) A review by the owner or operator of a source of incidental emissions of the criteria listed in s. NR 445.11 to determine whether the source is subject to regulation under s. NR 445.07 and those provisions identified in s. NR 445.06 (1) (a) to (e).

Note: Changes in methods of operations, process modifications and material substitution are examples that may be likely to cause changes in emissions of hazardous air contaminants.

(6) “Essential service” means an activity to provide any of the following:

(a) Nuclear power plant emergency backup power generation.

(b) Combustion turbine startup.

(c) Safety or asset protection in an emergency situation.

Note: Examples include activities to provide emergency heating, ventilation, lighting, flood relief or spills response.

(7) “Hazardous air contaminant” means any air contaminant for which no ambient air quality standard is set in ch. NR 404 and which the department determines may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or may pose a significant

~~or order, for any hazardous air contaminant that is not listed in Table A, B or C of s. NR 445.07.~~

~~(5) The department may establish emission limitations for hazardous air contaminants for sources in permits or general or special orders issued by the department.~~

~~**History:** CR 02-097: renum. from NR 445.06 (1) and (4) and NR 445.07 (5), am. (1) and (4), cr. (2) and (3) Register June 2004 No. 582, eff. 7-1-04; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register July 2008 No. 631; corrections in (1) and (4) made under s. 13.92 (4) (b) 6., Stats., Register August 2008 No. 632.~~

NR 445.16 Notice of hazardous substance air spills.

Persons possessing or controlling a hazardous substance shall immediately notify the department of any hazardous emission not in conformity with a permit or allowed by the department under chs. NR 400 to 499. Notice shall be given as required by s. 292.11,

Stats., and ch. NR 706.

Note: The owner or operator of a facility is responsible for determining whether a substance released (or spilled) is considered a hazardous substance as defined in s. 292.01 (5), Stats., and whether that hazardous substance was released to the environment. Section NR 706.05 (1) (a) contains language that assists in making such a determination. If the facility owner or operator determines that a release of a hazardous substance to the environment has occurred, the spills law, s. 292.11, Stats. and the rules contained in ch. NR 706 apply. Both ch. 292, Stats., and ch. NR 706 contain exemptions to the spill reporting requirements. In addition, s. NR 706.07 (2) (b) 1., 2., 3. and 4. contain language specifying when those exemptions do not apply, including impacts or threats to the environment, human health or safety. Other regulations, permits, and reporting requirements, including s. NR 439.03 (4) and ch. NR 438, may also apply to the hazardous substance release.

History: Renum. from NR 154.06 and am., Register, September, 1986, No. 369, eff. 10-1-86; renum. from NR 445.05, Register, September, 1988, No. 393, eff. 10-1-88; correction made under s. 13.93 (2m) (b) 7. Stats., Register, September, 1988, No. 393; am., Register, November, 1999, No. 527, eff. 12-1-99; CR 02-097: renum. from NR 445.08 Register June 2004 No. 582, eff. 7-1-04.