



NIR 154

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Anthony S. Earl  
Secretary

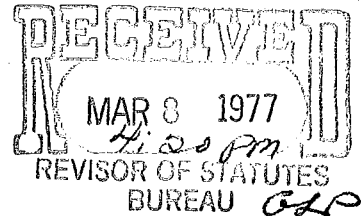
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MADISON, WISCONSIN 53701

IN REPLY REFER TO: \_\_\_\_\_

STATE OF WISCONSIN )

DEPARTMENT OF NATURAL RESOURCES )

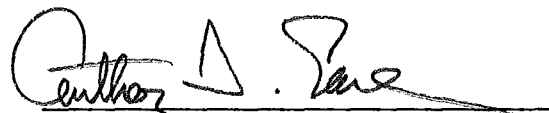
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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Anthony S. Earl, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. A-53-76 was duly approved and adopted by this Department on November 18, 1976. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at Pyare Square Building in the Village of Shorewood Hills, this 4<sup>th</sup> day of March, 1977.

  
Anthony S. Earl, Secretary

(SEAL)

STATE OF WISCONSIN NATURAL RESOURCES BOARD

.....  
IN THE MATTER of repealing section NR 154.05(1);  
renumbering sections NR 154.01(3)(b) & (c) and  
154.05(3); renumbering and amending sections NR  
154.01(3)(a)3., 154.04(2), 154.05(2) and 154.05  
(4) thru (15); amending sections NR 154.01(38)  
intro. para., and 154.04(1); and creating sections  
NR 154.04(2), 154.05(2) & (3) and 154.055 of the  
Wisconsin Administrative Code pertaining to  
processing air contaminant project applications  
.....

A-53-76

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

REPEALING, RENUMBERING, AMENDING AND CREATING RULES

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by sections 144.30 to 144.46, 144.54 and 144.57 and chapter 227, Wisconsin Statutes, the State of Wisconsin Natural Resources Board hereby repeals, renumbers, amends and creates rules as follows:

SECTION 1 - NR 154.01(3) (a) 3. is renumbered NR 154.01 (3) (b) and amended to read:

(b) Portable source is any facility, installation, operation or equipment which directly results in the emission of any air contaminant while at a fixed location but is capable of being transported to a different location. (e.g. portable asphalt plant, portable package boiler, portable air curtain destructor, etc.). A modified portable source or a source which has never received a plan approval shall be considered a direct stationary source for the purpose of initial department approval of the source pursuant to sections NR 154.04 and NR 154.05.

SECTION 2 - NR 154.01 (3) (b) and (c) are renumbered NR 154.01 (3) (c) and (d).

SECTION 3 - NR 154.01 (38) intro. para. is amended to read:

(38) Modification: Any change in physical size or method of operation of a stationary or portable source which increases the amount of any air contaminant emitted except that:

SECTION 4 - NR 154.04 (1) is amended to read:

(1) No person shall cause, suffer, allow or permit the construction of a new stationary source, or the addition to, relocation, modification, or replacement of an existing stationary source listed hereunder, without submitting in writing a notice of intent to the department, containing the information required by NR 154.04(3), prior to commencing construction or modification of said source. A notice of intent shall be submitted for any stationary source:

(a) Which can burn coal, coke or other solid fuel at a heat input rate greater than one million BTU per hour.

(b) Which can burn distillate oil (fuel oil), crude oil or residual oil at a heat input rate greater than 5 million BTU per hour.

(c) Which can burn gaseous fuel at a heat input rate greater than 30 million BTU per hour.

(d) Which can incinerate solid wastes at a rate greater than 50 pounds per hour (dry basis) or which can incinerate liquid wastes at a rate greater than 50 pounds per hour. Incinerators over 1,000 pounds per hour capacity are to be licensed under the solid waste management rules, Wis. Adm. Code chapter NR 151. A single submittal of a notice of intent to the department will be sufficient notification.

(e) Which produces carbon black, charcoal, detergent or soap, explosives, hydrofluoric acid, nitric acid, paint, varnish, phosphoric acid, plastics, printing ink, sodium carbonate, sulfuric acid, sulfur dioxide, dehydrated alfalfa, dried corn, roasted coffee, feed and grain, fish meal, fertilizers, smoked meats and sausage, starch, primary metals, ferroalloys, metallurgical coke, cast metals, asphalt roofing, asphalt concrete, brick or clay products, calcium carbide, cement, ceramics, cleaned coal, concrete mix, desulfurized oil, fiberglass, frit glass, gypsum, lime, mineral wool, paperboard, perlite, paper pulp, phosphate rock, gravel, sand, stone, refined petroleum or petrochemical products, or wood products.

(f) Which emits asbestos, antimony, barium, beryllium, bromine, cadmium, chlorine, chromic acid, chromates, chromium, cobalt fume or dust, copper fume or dust, cyanides, fluorine, hydrogen chloride, hydrogen fluoride, iron (water soluble salts), lead, manganese, mercury, molybdenum, nickel carbonyl, nickel, nitric acid (including anhydrides), phosphoric acid including anhydrides, phosphorus (yellow), platinum (water soluble salts), selenium, sulfuric acid, thallium (water soluble compounds), tin, uranium, vanadium, pesticides, their mixtures, or their compounds. This section shall not apply to laboratories or water chlorination facilities.

(g) Which emits or may emit organic compounds at more than 15 pounds per day or more than 3 pounds per hour.

(h) Which can store more than 1,000 gallons of photochemically reactive compound.

(i) Which can store more than 40,000 gallons of any organic compound.

(j) Which is an indirect source located in a standard metropolitan statistical area (SMSA) and which meets one of the following criteria:

1. Any new parking facility, or other new indirect source with an associated parking area, which has a parking capacity of 1,000 cars or more.

2. Any modified parking facility or any modification of an associated parking area which increases parking capacity by 500 cars or more.

3. Any new highway project with an anticipated annual peak hour traffic volume of 1,200 or more vehicles per hour within 10 years of construction.

4. Any highway modification project which will increase the annual peak hour traffic volume by 1,200 or more vehicles per hour within 10 years after modification.

(k) Which is an indirect source outside all SMSA's and which meets one of the following criteria:

1. Any new parking facility or other new indirect source with an associated parking area which has a parking capacity of 1,500 cars or more.

2. Any modified parking facility or any modification of an associated parking area which increases parking capacity by 750 cars or more.

3. Any new highway project which will carry 4 or more lanes of traffic and which has an anticipated annual peak hour traffic volume of 1,800 or more vehicles per hour within 10 years of construction.

4. Any highway modification project which will create an additional 2 or more lanes of traffic and which will increase the annual peak hour traffic volume by 1,800 or more vehicles per hour within 10 years after modification.

(1) Which is an airport, the construction or general modification program of which is expected to result in the following activity within 10 years of construction or modification:

1. New airport: 50,000 or more operations per year by regularly scheduled certificated air carriers, or use by 1,000,000 or more passengers per year.

2. Modified airport: Increase of 50,000 or more operations per year by regularly scheduled certificated air carriers over the existing volume of operations or increase of 1,000,000 or more passengers per year.

(m) Which exceeds one of the criteria in NR 154.04(1) as a result of incremental growth. Where a stationary source is constructed or modified in increments which individually are not subject to review under this paragraph, all such increments occurring since the effective date of this rule or since the latest approval hereunder, whichever date is most recent, shall be added together for determining the applicability of this paragraph; or

(n) Which has uncontrolled emissions which exceed or are estimated to exceed 6 pounds per hour of any air contaminant or which causes objectionable odors. In those cases where this size limitation applies as well as another of the limitations above, the more restrictive limitation shall be used.

SECTION 5 - NR 154.04 (2) is renumbered NR 154.04 (3) and amended to read:

(3) A separate written notice of intent shall be submitted for each construction or modification project.

(a) For all stationary sources, said notice of intent shall include, but not be limited to:

1. The name, address and telephone number of the person submitting the notice of intent and the name(s) and address(es) of any other owner(s) and/or operator(s) of the facility.

2. A listing of all stationary sources associated with the facility.

3. A map showing the location and layout of the facility and adjacent streets, roads and property.

4. The expected dates when construction will commence, when emissions associated with the operation of the facility will begin, and when all aspects of the facility will be completed and open for business or fully operational; and

5. The estimated cost of the project.

(b) For direct sources, said notice of intent shall include, but not be limited to, in addition to the information required in subsection (3)(a) above:

1. Manufacturer of the equipment; model number and rated capacity.

2. Description of the process and a flow diagram.

3. Estimated composition and amounts of raw materials used.

4. Expected types, composition and amounts of fuel burned, including:

- a. Heating values

- b. Sulfur content, percentage by weight.

- c. Ash content, percentage by weight.

5. Operating schedule.

6. Information on any equipment to be used for measurement or control of emissions.

7. Stack height, temperature, exit diameter and exit velocity; and

8. Emission rates at rated capacity of particulate matter, sulfur oxides, nitrogen oxides, carbon monoxide, hydrocarbons, TRS or any toxic and hazardous materials.

(c) For indirect sources other than highway projects, said notice of intent shall include, in addition to the information required in subsection (3)(a) above:

1. A description of the proposed use of the site, including the normal hours of operation of the facility and the general types of activities to be operated therein; and

2. A site plan showing the location of associated parking areas, points of motor vehicle ingress and egress to and from the site and its associated parking areas and the location and height of buildings on the site.

(d) For airports, said notice of intent shall include, in addition to the information required in subsection (3) (a) above:

1. An estimate of the maximum number of aircraft operations per day by type of aircraft and an estimate of total passenger loadings during the first and tenth years after the expected date of completion; and

2. The information required under subsection (3) (c) above.

(e) For highway projects, said notice of intent shall include, in addition to the information required in subsection (3)(a) above:

1. An estimate of the annual peak hour traffic volume and annual average daily traffic volume expected during the first and tenth years after the expected date of completion.

2. An estimate of vehicle speeds for annual peak hour and annual average daily traffic volume conditions.

3. The maximum vehicle capacity of the highway project; and

4. A description of the general features of the highway project and associated right-of-way, and location of receptors along the right-of-way.

(4) Exemption from the requirement to submit a notice of intent does not relieve any persons from compliance with the emission limits of this chapter, the air quality requirements of Wis. Adm. Code chapter NR 155, or the reporting requirements of Wis. Adm. Code chapter NR 101.

SECTION 6 - NR 154.04 (2) is created to read:

(2) The department shall respond within 15 days after receipt of a notice of intent which contains the information required by NR 154.04(3). This response shall contain either:

(a) A list of plans, specifications and other information needed to allow the department to initiate its analysis pursuant to NR 154.05 as to whether or not the proposed new source will be in accordance with applicable rules in force pursuant to sections 144.30 to 144.46, 144.54 and 144.57, Wis. Stats.; or

(b) A notification that the notice of intent submitted contained sufficient information to allow the department to make a preliminary determination, pursuant to NR 154.05(1)(a), as to whether or not the source is in compliance with applicable air pollution control statutes and rules and that the procedures of NR 154.05 will proceed.

SECTION 7 - NR 154.05 (1) is repealed.

SECTION 8 - NR 154.05 (2) is renumbered NR 154.05 (1) and amended to read:

NR 154.05 Action on applications. (1) Within 30 days after receipt of 2 copies of the plans, specifications and other information provided pursuant to section 144.39(1), Wis. Stats., needed to allow the department to analyze whether or not the source is in compliance with appropriate air pollution statutes and rules, or within 30 days after receipt of a notice of intent for construction of a source which does not require submittal of plans, specifications or other information, the department shall:



(a) Make a preliminary determination of whether the source should be approved, approved with conditions in accordance with paragraphs (9) or (10) of this section, or disapproved.

(b) Make available in at least one location in each region in which the source would be constructed a copy of all nonconfidential materials submitted by the owner or operator, a copy of the department's analysis and preliminary determination, and a copy or summary of other materials, if any, considered by the department in making its preliminary determination.

(c) Notify the applicants, interested members of the public, and appropriate federal, local and state officials of the proposed project, of the department's preliminary determination, and of the opportunity for public comment.

(d) Place a notice in a newspaper of general circulation in each region in which the source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the department's preliminary determination on the approvability of the source.

SECTION 9 - NR 154.05 (2) is created to read:

(2) Public comments submitted in writing within 30 days after the date of said public notice shall be considered by the department in making its final decision on the application. The applicant may submit a written response to any comments submitted by the public no later than 10 days after the close of the public comment period. The department shall consider the applicant's response in making its final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

SECTION 10 - NR 154.05 (3) is renumbered NR 154.05 (4).

SECTION 11 - NR 154.05 (3) is created to read:

(3) (a) The department shall take final action on the source after the close of the public comment period and after reviewing any response the applicant wishes to make to public comments. The department shall, by order, notify the owner or operator of the source in writing of its approval, conditional approval or disapproval of the proposed source. Said order must be issued within 30 days of the close of this public comment period and shall be made available for public inspection in at least one location in the region in which the source would be located. Construction may proceed only after an order granting approval or conditional approval has been received from the department and must proceed in accordance with the plans, specifications, and other information submitted and in accordance with any conditions imposed by the department.

(b) Notwithstanding any other provision appearing in this chapter, the department may not approve or disapprove any application until the department has discharged its duties under section 1.11, Wis. Stats.

SECTION 12 - NR 154.05 (4) thru (15) are renumbered NR 154.05 (5) thru (16)

and amended to read:

(5) For an indirect source other than a highway project or an airport, the department shall issue an order prohibiting construction if it determines that the affected facility will:

(a) Cause a violation of any control strategy of the state implementation plan.

(b) Cause or exacerbate a violation of either ambient air quality standard for carbon monoxide in any region or portion thereof.

(c) Raise the carbon monoxide level in the area sufficiently to prevent the construction of any other stationary source, for which plans are received

by the department prior to the commencement of the plan review period for the affected facility, from being approvable under these rules.

(6) For a highway project subject to this paragraph, the department shall issue an order prohibiting construction if it determines that the affected facility will:

(a) Cause a violation of any control strategy of the state implementation plan.

(b) Cause or exacerbate a violation of either ambient air quality standard for carbon monoxide in any region or portion thereof.

(c) Degrade the air quality along the highway corridor sufficiently to prevent construction of any other indirect source, for which plans are received by the department prior to the commencement of the plan review period for the affected facility, from being approvable under these rules.

(d) The determination pursuant to subsections (6)(b) and (c) of this section shall be made by evaluating the anticipated concentration of carbon monoxide at nearby receptor or exposure sites which will be affected by the mobile source activity expected on the highway for the 10-year period following the expected date of completion, using traffic flow characteristic guidelines published by the U.S. environmental protection agency, appropriate atmospheric diffusion models, and/or any other reliable analytic method.

(e) For any new highway project with an anticipated average daily traffic volume of 50,000 or more vehicles per day within 10 years of construction or any highway modification project which will increase the average daily traffic volume by 25,000 vehicles per day or more within 10 years after modification, the department may require the following in addition to the requirements of subsection (6)(d) of this section for consideration in determining the approvability of the affected facility. The expected concentrations of carbon monoxide,

photochemical oxidants and nitrogen dioxide shall be estimated for the 10-year period following completion of construction or modification using an areawide air quality analysis or other modeling technique approved by the department.

(7) For an airport subject to this paragraph, the department shall issue an order prohibiting construction if it determines that the affected facility will:

(a) Cause a violation of any control strategy of the state implementation plan.

(b) Cause or exacerbate a violation of either ambient air quality standard for carbon monoxide in any region or portion thereof.

(c) The determination pursuant to subsection (7)(b) of this section shall be made according to department guidelines. These guidelines may include the following:

1. All emissions from air contaminant sources at the airport, as well as emissions from the development of other new stationary sources expected to occur within 3 miles of the perimeter of the airport, will be added together in order to determine the aggregate impact on air quality for the 10-year period following the expected date of completion.

2. An areawide air quality analysis or other modeling technique approved by the department will be used to determine the expected ambient concentration of carbon monoxide following construction or modification.

3. For highway projects and parking facilities specified under subsection (7)(c) of this section which are associated with airports, the applicable procedures specified in subsections (6)(d) and (e) of this section will be used.

(d) In addition to the requirements of subsection (7)(c) of this section, the department may require that an areawide air quality analysis or other modeling technique approved by the department be used to determine the expected ambient concentrations of photochemical oxidants and nitrogen dioxide following construction or modification for consideration in determining the approvability of the affected facility.

(8) The air quality impact of a proposed stationary source will be determined at such locations where people might reasonably be exposed for time periods consistent with the ambient air quality standards for the pollutants for which an analysis is carried out.

(9) Whenever a stationary source as proposed by an owner or operator's application would not be permitted to be constructed for failure to meet the tests set forth in subsections (4), (5), (6) or (7) of this section, the department may, instead of issuing an order prohibiting construction, grant a conditional approval which imposes reasonable conditions related to the air quality aspects of the proposed facility so that such facility, if constructed or modified in accordance with such conditions, could meet the tests set forth in subsections (4), (5), (6) or (7) of this section. For indirect sources, such conditions may include, but are not limited to:

(a) Binding commitments to roadway improvements or additional mass transit facilities to serve the facility secured by the owner or operator from governmental agencies having jurisdiction thereof.

(b) Binding commitments by the owner or operator to specific programs for mass transit incentives for the employees and patrons of the source.

(c) Binding commitments by the owner or operator to construct, modify or operate the facility in such a manner as may be necessary to achieve the traffic flow characteristics which have been determined not to cause violations of the national standards for carbon monoxide.

(10) Notwithstanding the provisions relating to modified stationary sources contained in NR 154.04(1), the department may condition any approval by reducing the extent to which the facility may be further modified without resubmission for approval under this paragraph.

(11) Any owner or operator who fails to construct a stationary source in accordance with the application as approved by the department; any owner or operator who fails to construct and operate a stationary source in accordance with conditions imposed by the department under subsection (9) of this section; any owner or operator who modifies a stationary source in violation of conditions imposed by the department under subsection (10) of this section; or any owner or operator of a stationary source subject to this section who commences construction or modification thereof after the effective date of these rules, without applying for and receiving approval hereunder, shall be considered in violation of this chapter.

(12) Approval to construct or modify a stationary source other than an airport or a highway section shall become invalid if construction or modification is not commenced within 24 months after the date when written approval was issued by the department. The department may extend such time period for up to 12 months on written request upon satisfactory showing that an extension is justified.

(13) Approval to construct or modify an airport shall become invalid if construction or modification is not commenced within 4 years after the date when written approval was issued by the department. The department may extend such time period for 2 years on written request.

(14) Approval to construct or modify for a highway project shall become invalid if construction or modification is not commenced within 6 years after the date when written approval was issued by the department. The department may extend such time period for up to 3 years on written request.

(15) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the emission limits of this chapter, the air quality standards of Wis. Adm. Code chapter NR 155 or the control strategies of all local, state and federal regulations which are part of the state implementation plan.

(16) The department may share review and public comment responsibilities for a source which is to be constructed by another agency of the state with such agency if the procedures followed by the agency fulfill the requirements of these subsections. Preliminary determination of the approvability of the source, evaluation of public comment on its air quality impact, and final approval or disapproval shall be the responsibility of the department.

SECTION 13 - NR 154.055 is created to read:

NR 154.055 Relocation of portable sources. (1) No person shall cause, suffer, allow or permit the relocation to a new site, without first meeting the requirements of this section, of a portable source:

(a) Which can burn coal, coke or other solid fuel at a heat input rate greater than one million BTU per hour.

(b) Which can burn distillate oil (fuel oil), crude oil or residual oil at a heat input greater than 5 million BTU per hour.

(c) Which can burn gaseous fuel at a heat input rate greater than 30 million BTU per hour.

(d) Which emits or may emit, with any emission control equipment inoperative more than 6 pounds per hour of any air contaminant or which causes objectionable odors. In those cases where this size limitation applies as well as another of the limitations above, the more restrictive limitation shall be used.

(2) For portable sources operating under a plan approval pursuant to NR 154.01(3)(b), NR 154.04 and NR 154.05, relocation to a different site shall be approved, approved with conditions, or denied by the department in writing within 30 days after receipt of a completed site change form to be supplied by the department.

(3) The department shall approve relocation of a portable source if:

(a) The source meets the applicable emission limits.

(b) Operation at the proposed new site will not cause nuisance conditions.

(c) Operation at the new site will not cause a violation of any control strategy of the state implementation plan or cause or exacerbate a violation of any air quality standard.

(4) In applying for relocation approval an applicant may request approval of more than one site. If more than one site is approved, the portable source may be relocated from one approved site to another approved site without the submission of an additional site change form to the department. However, the department shall be notified of any such relocation to another approved site prior to the commencement of operations thereon.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on November 18, 1976.

The rules contained herein shall take effect upon publication.

Dated at Madison, Wisconsin

4 March 1977

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By

Anthony S. Earl

Anthony S. Earl, Secretary

(SEAL)