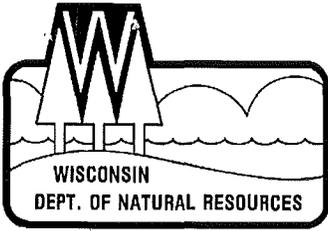


CR 94-64



George E. Meyer
Secretary

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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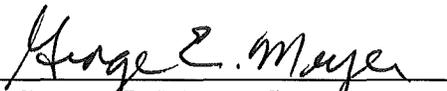
STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, 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. AM-11-94 was duly approved and adopted by this Department on August 18, 1994. 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 the Natural Resources Building in the City of Madison, this 22nd day of October, 1994.


George E. Meyer, Secretary

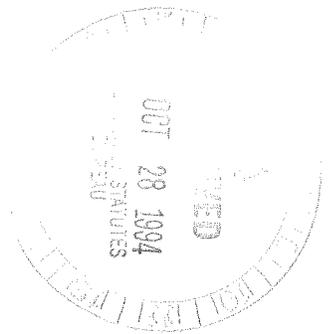
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ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
AMENDING RULES



IN THE MATTER of amending NR 486 (title), 486.01(2), 486.02(2) to (5), (9), (10), (11), (13), (14), (16) and (22), 486.03(1) (intro.), (2) (a) and (b), 486.04(1) (a) and (b), 486.05(2) (b) and (d) and (3), 486.06 (title), (1) (b) and (c), (2) (intro.) and (3) (intro.), (b) (intro.), 7. and 8., 486.08(4), 486.09 (title), (1) (d) and (e), 486.10(1) (a), and 486.11 of the Wisconsin Administrative Code pertaining to the employe trip reduction program.

AM-11-94

Analysis Prepared by the Department of Natural Resources

Authorizing Statutes: s. 144.31(1) (a) and (f), 144.3712(2) and 227.11(2) (a), Stats.

Statutes interpreted: ss. 144.31(1) (f) and 144.3712, Stats. The State Implementation Plan developed under s. 144.31(1) (f), Stats., is revised.

The proposed rule revises the Employe Trip Reduction program by changing the name of the rule to make it consistent with U.S. Environmental Protection Agency terminology, revises the definitions of "employe", "affected employe" and "affected employer", revises the time period over which employers count their number of employes from an annual to an ozone season based average and increases the distance within which employers can submit combined compliance plans from one half mile to 2 miles. Other proposed revisions are included which modify or edit rule language to add clarity to the rule's intent.

SECTION 1. Chapter NR 486 (title) is amended to read:

CHAPTER NR 486 (title)

EMPLOYE TRIP REDUCTION COMMUTE OPTIONS PROGRAM

SECTION 2. NR 486.01(2) is amended to read:

NR 486.01(2) PURPOSE. The purpose of this chapter is to establish, pursuant to s. 144.3712, Stats., requirements for the development of an employe commute options program, otherwise referred to as an employe trip reduction program.

SECTION 3. NR 486.02(2) to (5), (9), (10), (11), (13), (14), (16) and (22) are amended to read:

NR 486.02(2) "Affected employe" means an employe who reports ~~or is assigned~~ on a regular schedule to a worksite of 100 or more employes during the peak travel period. ~~This term includes employes who are employed half-~~

~~time or more at the worksite during the ozone season and report during the peak travel period.~~

(3) "Affected employer" means any person, firm, business, educational institution, ~~government department or agency~~ the state, a political subdivision of the state, the federal government, nonprofit agency or corporation, or other entity which employs a weekly average of 100 or more employees ~~in a~~ during one year period ozone season at a ~~single~~ worksite within the affected area.

(4) "Alternative means of commuting" means travel between an employe's place of residence and primary worksite, ~~a minimum of 2 miles from the primary worksite~~, other than in a vehicle occupied by one person. Alternative means of commuting include but are not limited to the use of public transit, carpools, vanpools, buspools, bicycling, walking, telecommuting and compressed work schedules which are designed to reduce the number of days per week an employe must travel to work.

(5) "Average passenger occupancy" means the number of affected employes reporting to a worksite during the peak travel period divided by the number of vehicles in which those employes report as determined by the survey ~~required~~ information described under s. NR 486.06(3).

(9) "Clean fuel vehicle" means a vehicle ~~capable of operating that~~ operates on liquid petroleum gas, methanol, compressed natural gas or electricity or which has been certified by the department as a clean fuel vehicle meeting low emission, ultra low emission or zero emission vehicle standards.

(10) "Commuter transportation incentive or disincentive" means the financial benefits, amenities or other strategies employers develop in their employe ~~trip reduction~~ commute options compliance plans which encourage or facilitate employes to use alternative means of commuting and which discourage single occupancy vehicle travel. Commuter transportation incentives include but are not limited to the compliance plan options described in s. NR 486.06(1)(h).

(11) "Compliance plan" means the employe ~~trip reduction~~ commute options program plan required under this chapter and described in s. NR 486.06.

(13) "Employee" means any person who is employed by an affected employer and who reports to ~~or is assigned primarily to~~ a worksite ~~half-time or more in either a permanent or temporary capacity, on either a contract or employed basis, excluding that is owned or operated by that employer.~~ The term "employee" includes full-time and part-time employes, and temporary employes not substituting for absentee permanent employes, who work at least 440 hours during the ozone season, but does not include volunteers.

(14) "Employee transportation coordinator" means a person who has completed department approved training on employe ~~trip reduction~~ commute options and who has primary responsibility for developing and coordinating the alternative means of commuting strategies in an affected employer's compliance plan.

(16) "Peak travel period" means the time ~~between~~ from 6 a.m. ~~and to~~ 10 a.m. Monday ~~through~~ to Friday.

(22) "Worksite" means ~~a building or group of buildings located within the affected area which~~ a place of employment or base of operation of an employe within the affected area. Where places of employment or bases of operation of employes are adjacent or separated only by a private or public roadway or other private or public right-of-way, and where those places of employment or bases of operation are owned and or operated by the same employer or by employers under common control as described in s. NR 486.03(1), those places of employment or bases of operation shall be considered a single worksite.

SECTION 4. NR 486.03(1)(intro.), (2)(a) and (b) are amended to read:

NR 486.03(1)(intro.) GENERAL REQUIREMENTS. Each affected employer shall comply with the requirements of this chapter at each affected worksite. Each affected employer shall submit and implement a plan to increase the average passenger occupancy rate of its affected employes to not less than 1.4

passengers per vehicle by November 15, 1996 or within 2 years of the employer's initial compliance plan submittal if it is due after November 15, 1994. For purposes of this chapter, if several subsidiaries or units occupy the same worksite and report to one common governing board or governing entity, they are considered to be one employer, unless they are operated and managed separately and distinctly.

(2) (a) ~~Affected employers with~~ An affected employer is not required to comply with the employe commute options requirements of this chapter for a worksite if the affected employer demonstrates to the department's satisfaction that a weekly average of 33 or fewer employes arriving at report to the worksite during the peak travel period are not required to comply with the employe trip reduction commute options requirements of this chapter, provided they submit documentation to the department certifying that 33 or fewer employes arrive at the worksite during the peak travel period of the ozone season.

(b) A separate worksite, including a worksite of an affected employer, which has during the ozone season a weekly average of fewer than 100 employes is not subject to the requirements of this chapter.

SECTION 5. NR 486.04(1) (a) and (b) are amended to read:

NR 486.04(1) (a) The department shall obtain mailing lists which contain the names, addresses and number of employes, if known, of employers with 100 or more employes in the affected area and mail information to the employers about the employe ~~trip reduction~~ commute options program.

(b) After mailing the information under par. (a) the department shall publish notifications of the employe ~~trip reduction~~ commute options program and registration requirements of this chapter in newspapers having a circulation in the affected area counties.

SECTION 6. NR 486.05(2)(b), and (d) and (3) are amended to read:

NR 486.05(2)(b) Training on the sections of the clean air act pertaining to the employe ~~trip reduction~~ commute options program included in 42 USC 7511a (d)(1)(B).

(d) Training on the correct procedures for completing and submitting department employe ~~trip reduction~~ commute options compliance plan forms.

(3) SUBSEQUENT TRAINING. The employe transportation coordinator shall attend subsequent training on the employe ~~trip reduction~~ commute options program as may be required by the department but not more frequently than every 2 years.

SECTION 7. NR 486.06(title), (1)(b) and (c), and (2)(intro.) and (3)(intro.), (b)(intro.), 7. and 8. are amended to read:

NR 486.06(title) EMPLOYE COMMUTE OPTIONS COMPLIANCE PLANS AND SURVEYS.

NR 486.06(1)(b) Separate worksites of the same affected employer which are within ~~one-half mile~~ 2 miles of each other may submit a combined compliance plan upon prior approval of the department.

(c) Two or more affected employers may submit a combined compliance plan upon prior approval of the department for separate worksites which are located within ~~one-half mile~~ 2 miles of each other. Each affected employer submitting a combined compliance plan shall comply with sub. (2)(b).

(2)(intro.) COMPONENTS OF A COMPLIANCE PLAN. The department's bureau of air management shall ~~assist affected employers with developing their compliance plans~~ provide general guidance to assist employers in understanding the requirements of the employe commute options program, including guidance related to the completion of forms that must be submitted as part of an affected employer's compliance plan. The compliance plans submitted to the department under this chapter shall include the following information:

(3)(intro.) AVERAGE PASSENGER OCCUPANCY SURVEY REQUIREMENTS. Affected employers shall determine the average passenger occupancy ~~rate of affected employe vehicles reporting to each worksite during the peak travel period~~ by

conducting a survey of affected employes using forms and methods provided or approved by the department. The survey shall be taken over a consecutive 5 day period which begins on Monday and which does not include a holiday, follow a week which includes a Friday holiday, or precede a week which includes a Monday holiday. Surveys which are used to demonstrate compliance with the target average passenger occupancy rate shall be taken during the ozone season. The employer shall tabulate and report the results of the survey to the department for each worksite and include the following information:

(b) (intro.) The number of affected employes using each mode of travel in commuting to work during the peak travel period, including the use of single occupancy vehicles, public transit, buspooling, carpooling, or vanpooling, clean fueled vehicles and other alternative means of commuting. The following guidelines shall apply to the computation of ~~affected employes and vehicles arriving at the worksite during the peak travel period~~ the average passenger occupancy for each survey day:

7. An employe who transfers to a carpool, vanpool, buspool or public transit vehicle at a transit or rideshare collection point or to a bicycle or to walking shall make the transfer a minimum of 2 miles from the worksite in order to be counted as reporting to the worksite in a carpool, vanpool, buspool or public transit vehicle, or by walking or bicycling. If the transfer point is less than 2 miles from the worksite, the employe shall be counted as reporting to the worksite according to the mode of travel to the transfer point.

8. An employe who reports to the worksite in a clean fuel vehicle shall be counted as one person ~~arriving at~~ reporting to the worksite in a fraction of a vehicle according to ~~standards~~ a formula prescribed by the department.

SECTION 8. NR 486.08(4) is amended to read:

NR 486.08(4) COMPLIANCE PLAN MODIFICATIONS. Employers shall notify the department ~~concerning~~ of any significant modifications to the department approved compliance plan within 60 days after the modifications. The

department shall determine whether the modifications affect the approval status of the employer's compliance plan and shall provide a written response approving or disapproving the modifications. Within 90 days after receipt of the notification from the employer, the department shall notify the employer of the department's decision to approve the modification as submitted, to conditionally approve the modification subject to implementation of recommendations made by the department, or to disapprove the modification. If the department extends its review of the modification beyond 90 days, the employer's modification shall be considered conditionally approved until the department notifies the employer of its final approval or disapproval of the modification. The department shall provide the reasons for disapproving a modification in writing.

SECTION 9. NR 486.09(title), (1) (d) and (e) are amended to read:

NR 486.09(title) ANNUAL EMPLOYEE COMMUTE OPTIONS COMPLIANCE PLAN RENEWAL.

(1) (d) An assessment of the changes in travel mode and worktrip distances experienced by employees participating in alternative means of commuting as a result of the employee ~~trip reduction~~ commute options program. The employer shall use forms and methods provided or approved by the department.

(e) A revised set of alternative means of commuting strategies using forms provided by the department which is appropriate and sufficient to increase the affected employer's average passenger occupancy ~~rate~~ to the target average passenger occupancy rate within 1 year ~~of~~ after submitting the employee ~~trip reduction~~ commute options compliance plan renewal. This requirement shall only apply to employers which fail to achieve the target average passenger occupancy rate of 1.4.

SECTION 10. NR 486.10(1)(a) is amended to read:

NR 486.10(1)(a) Affected employers participating in combined employee ~~trip reduction~~ commute options compliance plans as described in s. NR 486.06(1)(b) and (c).

SECTION 11. NR 486.11 is amended to read:

NR 486.11 RECORDKEEPING AND MONITORING. Affected employers shall retain copies of their completed employee ~~trip reduction~~ commute options compliance plan forms for a period of not less than 3 years. Employers shall also maintain records of information relevant to the development and implementation of alternative means of commuting strategies in their approved compliance plans. The department may inspect, verify and audit an employer's compliance plan records and monitor activities related to an employer's alternative means of commuting strategies.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on August 18, 1994.

The rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin 10/22/94

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E Meyer
George E. Meyer, Secretary

(SEAL)

