

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.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; r. and recr. Register, June, 1975, No. 234, eff. 7-1-75; am. (1), renum. (2) and (3) to be (3) and (4) and am., cr. (2), Register, April, 1977, No. 256, eff. 5-1-77.

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 subsections (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.

(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.

(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

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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.

(4) For a direct source, 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 any ambient air quality standard in any region or portion thereof.

(c) Degrade the air quality of 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.

(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 concentrations 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 employes 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.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; r. and rec. Register, June, 1975, No. 234, eff. 7-1-75; r. (1), (2) renum. to be (1) and am., cr. (2), renum. (4) to (15) to be (5) to (16) renum. (3) to be (4), cr. (3), Register, April, 1977, No. 256, eff. 5-1-77; am. (4), Register, March, 1978, No. 267, eff. 4-1-78.

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.

History: Cr. Register, April, 1977, No. 256, eff. 5-1-77.

NR 154.06 Operation and inspection of sources. (1) No person shall deny information or access to records relating to emissions to an authorized representative of the department.

(2) The department may require: Provision for sampling ports, a safe work area for test crews, safe access to the sampling platform, utilities for sampling and testing equipment, stack or performance tests performed by or under the direction of a qualified engineer or person with demonstrated ability in this field, instrumentation to monitor and record emission data, stack or performance tests performed in compliance with emission test guidelines developed by the department and submitted to the tester prior to the conducting of the test, or transfer of the test data sheets or sample collecting media to the department's witness for evaluation.

(a) The department shall be notified 10 days in advance of stack or performance tests to afford the department the opportunity to have a representative present to witness the testing procedures. Said notice shall provide a test plan which includes:

1. A description of the sampling equipment.
2. A description of the processes, operations, and equipment venting to the stack.
3. A description of process or operation variables which affect the air contaminant source's emissions.
4. A cross-sectional sketch showing:
 - a. Stack configuration at the sampling location.