

98-021 NR 487 - VOC-CLEAN FUEL FLEET

NR 487

98-021

State of Wisconsin  
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS  
OF PROPOSED RULEMAKING**

JUN 11 1998

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. AM-6-98

Legislative Council Rules Clearinghouse Number 98-021

Subject of Rules Clean fuel fleet program to reduce volatile organic compound and oxides of nitrogen emissions from fleet vehicles

Date of Transmittal to Presiding Officers June 9, 1998

Send a copy of any correspondence or notices pertaining to this rule to:

**Carol Turner, Rules Coordinator  
DNR Bureau of Legal Services  
LC/5, 101 South Webster**

266-1959

## REPORT TO LEGISLATURE

NR 487, Wis. Adm. Code  
Clean fuel fleet program to reduce volatile organic compound  
and oxides of nitrogen emissions from fleet vehicles

Board Order No. AM-6-98  
Clearinghouse Rule No. 98-021

### Statement of Need

The proposed rule revision will delay the start of the Clean Fuel Fleet program in Wisconsin under ch. NR 487 from model year (MY) 1998 to MY 1999, consistent with recent action by the U.S. Environmental Protection Agency (EPA). The U.S. EPA has decided to allow states to delay the mandatory implementation of the Clean Fuel Fleet program by one model year due to non-availability of an adequate model-mix and volume of certified clean fuel vehicles (CFVs) which meet low emission vehicle (LEV) tailpipe emission standards. The Clean Fuel Fleet program, which was scheduled to start with MY 1998 purchases, requires fleets covered under the program to acquire CFVs as a certain percentage of their new vehicle acquisitions each year. All fleets with 10 or more vehicles (excluding exempt categories) below 26,000 pounds gross vehicle weight, which can be centrally fueled and primarily operate in the six severe ozone non-attainment counties in southeast Wisconsin (Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha) are covered by the program.

The lack of CFV availability is primarily due to the inability or unwillingness of the vehicle and engine manufacturers to make certified vehicles available. Without an adequate model-mix and volume of certified clean fuel vehicles, the covered fleets cannot meet their compliance obligations under the program. Wisconsin and the other states which are subject to the Clean Fuel Fleet program alerted U.S. EPA of the situation. The U.S. EPA acknowledged the situation and decided to allow states to delay mandatory implementation of the Clean Fuel Fleet program by one year.

### Modifications as a Result of Public Hearing

No modifications were made as a result of the public hearing.

### Appearances at the Public Hearing and Their Position

In support:

Gary C. Evans, Wisconsin Electric, 231 W. Michigan St., Milwaukee, WI 53201  
Jim Jankowski, Trillion/Wis. Gas, 6 E. Wisconsin Avenue, Milwaukee, WI 53202  
Carolyn Amegashie, WI DOT, 4806 Sheboygan Avenue, Madison, WI 53707

In opposition:

Matt Burbach, 4924 Sheridan Road, Kenosha, WI 53140

As interest may appear:

Gary Mick, Milwaukee County, 907 N. 10<sup>th</sup> Street, Room 314, Milwaukee, WI 53132  
Robert Knighten, Milwaukee Co. Dept. of Public Works, 907 N. 10<sup>th</sup> St., Milwaukee, WI 53233  
Thomas A. Kurian, Elder Care Line, Inc., 1553 S. 38<sup>th</sup> Street, Milwaukee, WI 53215-1717  
Richard D. Wentland, 10320 W. Watertown Plank Road, Wauwatosa, WI 53226

W. A. Schaller, Milwaukee Co. Transit System, 1942 N. 17<sup>th</sup> Street, Milwaukee, WI 53205  
Robert Zirzow, Milwaukee Co. Fleet Maintenance, 10320 Watertown Plank Road, Wauwatosa  
James Michels, Wacker Corporation, N92 W15000 Anthony Avenue, Menomonee Falls, WI 53057

#### Response to Legislative Council Rules Clearinghouse Report

There were no comments or recommendations on the proposed rule.

#### Final Regulatory Flexibility Analysis

The parties likely to be impacted or interested in the delay of the Clean Fuel Fleet program are clean fuel providers and covered fleet operators. Covered fleet operators are those with 10 or more vehicles (below 26,000 pounds gross vehicle weight) which are centrally fueled or capable of being centrally fueled and primarily operating in the six southeast Wisconsin counties. No public controversy has arisen regarding the proposed rule revision to delay the implementation of the program. All comments received at the public hearing emphasized the importance of this program to the development of the alternative fuel industry in southeast Wisconsin. Another issue on which comments were received was the concern of the covered fleet operators that the time period between the rule revisions becoming effective and the new implementation date of the program (approximately 30 days) was too short.

The proposed rule to delay the CFFP by one year will not impose any new requirements on small businesses. The primary intent of the CFFP is to form an important nucleus to stimulate widespread introduction of clean fuel vehicles in urban areas and generate the demand for clean fuels. The environmental ozone reduction impact of the program is not very significant. The U.S. EPA guidance does not require the states to make up for the emission reduction loss due to one year implementation delay of the Clean Fuel Fleet program from other sources.

ORDER OF THE STATE OF WISCONSIN  
NATURAL RESOURCES BOARD  
AMENDING RULES

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:The Wisconsin Natural Resources Board proposes an order to amend :  
:NR 487.03(1)(a), (b) and (c), 487.05(4) and (5), 487.07(1) and (2), :  
:487.09(1)(d) and 487.10(1)(c) relating to the Clean Fuel Fleet : **AM-6-98**  
:Program to reduce volatile organic compound and oxides of nitrogen:  
:emissions from fleet vehicles. :  
:.....

Analysis Prepared by the Wisconsin Department of Natural Resources

Authorizing statutes: ss. 227.11(2)(a), 285.11(1) and 285.35(3), Stats.

Statutes interpreted: ss. 285.11(6) and 285.35(3), Stats. The State Implementation Plan developed under s. 285.11(6), Stats., is revised.

Section 285.35, Stats., authorizes DNR to administer a Clean Fuel Fleet Program. This program required by the 1990 federal Clean Air Act Amendments (42 USC 7511a(c)(4) and 7581 to 7590) for the severe ozone non-attainment counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha requires fleets covered under the program to acquire clean fuel vehicles as a certain percentage of their new vehicle acquisitions each year.

The proposed rule delays the implementation of the program by one model year from model year 1998 purchases to model year 1999 purchases. An additional change is made to the rules to make September 1, as the submission date of the annual compliance plan for each subsequent year.

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SECTION 1. NR 487.03(1)(a), (b) and (c) are amended to read:

NR 487.03(1)(a) 30% of all LDVs and LDTs and 50% of all light and medium HDVs purchased or otherwise newly acquired in model year ~~1998~~ 1999.

(b) 50% of all LDVs and LDTs and 50% of all light and medium HDVs purchased or newly acquired in model year ~~1999~~ 2000.

(c) 70% of all LDVs and LDTs and 50% of all light and medium HDVs purchased or newly acquired in model year ~~2000~~ 2001 and every model year thereafter.

SECTION 2. NR 487.05(4) and (5) are amended to read:

NR 487.05(4) **ANNUAL UPDATE.** ~~The~~ Starting in calendar year 1999, the covered fleet operator shall submit to the department by February 28 of each year an annual update of the fleet registration information listing the additions and deletions in the fleet and the vehicle mileages and fuel usage by the covered dual fuel or hybrid electrical vehicles.

(5) **SUBSEQUENTLY COVERED FLEETS.** The operator of a fleet which becomes subject to this chapter on or after September 1, ~~1997~~ 1998 shall register with the department within 60 days of the fleet qualifying as a covered fleet.

SECTION 3. NR 487.07(1) and (2) are amended to read:

NR 487.07 (1)(title) **FLEET OPERATORS COVERED ON OR BEFORE SEPTEMBER 1, 1998.** Except as provided in sub. (2), a fleet operator that is a covered fleet operator on or before September 1, ~~1996~~ 1998 shall submit an initial compliance plan to the department no later than September 1, ~~1996~~ 1998 or within 120 days of formal notification by the department that compliance plans are due, whichever comes ~~first~~ later. Subsequent annual compliance plans shall be submitted by ~~the anniversary date of the initial submittal~~ September 1, of each year.

(2)(title) **FLEET OPERATORS COVERED AFTER SEPTEMBER 1, 1998.** Fleet operators who become covered fleet operators after September 1, ~~1996~~ 1998 shall submit their initial annual compliance plan to the department within 180 days of becoming covered fleet operators. Subsequent annual compliance plans shall be submitted by ~~the anniversary date of the initial submittal~~ September 1, of each year.

SECTION 4. NR 487.09(1)(d) is amended to read:

NR 487.09(1)(d) The covered fleet operator acquires clean fuel fleet vehicles in the period after November 15, 1990 but before the beginning of the ~~1998~~ 1999 MY.

SECTION 5. NR 487.10(1)(c) is amended to read:

NR 487.10(1)(c) Following EPA approval of this chapter as part of Wisconsin's ozone state implementation plan, but before the beginning of the ~~1998~~ 1999 MY, covered clean fuel fleet vehicles shall be exempt from temporal-based TCMS.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on May 27, 1998.

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 \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
George E. Meyer, Secretary

(SEAL)