



CR 81-184

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

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STATE OF WISCONSIN)
DEPARTMENT OF NATURAL RESOURCES) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carroll D. Besadny, 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-39-81 was duly approved and adopted by this Department on November 17, 1982. 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 General Executive Facility #2 in the City of Madison, this 21st day of February, 1983.

Carroll D. Besadny

Carroll D. Besadny, Secretary

(SEAL)

5-1-83

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
REPEALING, AMENDING, REPEALING AND RECREATING AND CREATING RULES

.....
IN THE MATTER OF repealing section NR 155.06(4); .
amending section NR 154.19(1); repealing and .
recreating sections NR 154.01(118), 154.04, and 154.08; .
and creating sections NR 154.01(intro.) (13m), (27m), .
(66m), (75m), (106m), (118s), (162m), (164g) and (164m), .
154.145, 154.24, 154.25, 155.03(7) and 155.035 of the .
Wisconsin Administrative Code pertaining to the .
establishment of ambient air quality standards and .
emission limitations for lead; the establishment of .
ambient air increments for sulfur dioxide and .
particulate matter; the establishment of categories .
of sources exempt from permit requirements; the .
establishment of procedures for conducting .
noncontested case public hearings on air pollution .
control permits and permit applications; the .
establishment of procedures for alteration of permits .
in response to the petition of a permit holder; and the .
conformity of administrative code provisions with .
statutory provisions. .
.....

A-39-81

Analysis Prepared by the Department of Natural Resources

The air pollution control permit legislation enacted by the legislature in the 1979 legislative session required the Department to promulgate certain administrative rules to fully implement the permit legislation. The legislation set certain specific deadlines for rule-making by the Department. The rule changes in this order include the rule revisions which should have been submitted to the legislature by December 31, 1981.

SECTION 1 provides that the definitions in s. NR 154.01, Wis. Adm. Code, are applicable to chs. NR 154 and 155, Wis. Adm. Code.

SECTIONS 2, 3 and 4 define terms which are included in the rule revisions in this order and conform the definitions of certain terms in chs. NR 154 and 155, Wis. Adm. Code, with the statutory definitions of those terms.

Prior to the 1979 air pollution control permit legislation, only those classes or types of air contaminant sources specified in the Department's rules were required to submit a notice of intent prior to construction, installation or establishment of the air contaminant source. The 1979 legislation, however, requires every air contaminant source to obtain an air pollution control permit prior to construction, reconstruction, replacement, relocation, or modification of the source unless the source is exempted from

permit requirements by statute or by rule of the Department. SECTION 5 outlines the categories of sources which are exempt from the requirement to obtain a permit because the potential emissions from the sources do not present a significant hazard to public health, safety or welfare or to the environment.

SECTION 6 conforms the enforcement and penalties provisions of the administrative code to the enforcement and penalties provisions enacted in the 1979 air pollution control permit legislation.

Section 144.375(1)(a), Stats., requires the Department to promulgate by rule an ambient air quality standard similar to, but not more restrictive than the federal standard. The U.S. Environmental Protection Agency adopted an ambient air quality standard for lead and lead compounds in October, 1978. SECTION 11 is the Department's promulgation of the same standard for lead and its compounds. SECTION 7 establishes emission limitations for lead sources and SECTION 8 removes lead from the category of contaminants regulated as hazardous substances.

In response to requirements outlined in ss. 144.392(7)(b), 144.3925(5)(b) and 144.397(4)(b), Stats., SECTION 9 outlines procedures for requesting and conducting noncontested case public hearings on permit applications and operating permits.

SECTION 10 details procedures for the alteration of a permit when alteration is petitioned for by the permit holder. The procedure includes a notice requirement and an opportunity for public comment and public hearing on the petition.

Section 144.375(2), Stats., requires the Department to promulgate by rule ambient air increments which are consistent with and not more restrictive than increments under the federal Clean Air Act. The federal ambient air increments for sulfur dioxide and particulate matter are promulgated in SECTION 12.

SECTION 13 removes a requirement that the Department hold a public hearing to assess the public attitude on allowing a new source to be constructed when the source has the potential to degrade significantly the air quality in the area. The permit application and review process established by the 1979 legislation includes requirements for Department analysis of the effect of the source on air quality, for public comment and the opportunity for public hearing on the permit application and the Department's analysis. The new permit application and review procedures can address the concerns which were to be addressed in the separate hearing under s. NR 155.06(4), Wis. Adm. Code.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 144.31(1)(a) and (f), 144.375(1)(a) and (2), 144.391(6), 144.392(7)(b), 144.3925(5)(b), 144.397(4)(b), 144.402 and 227.014(2)(a), Stats., the State of Wisconsin Natural Resources Board hereby adopts rules interpreting ss. 144.375(1)(a) and (2), 144.391(6), 144.392(7)(b), 144.3925(5)(b), 144.397(4)(b) and 144.402, Stats., and revising the State Implementation Plan developed under s. 144.31(1)(f), Stats., as follows:

SECTION 1. NR 154.01(intro.) is created to read:

NR 154.01(intro.) In chs. NR 154 and 155, the following words have the designated meanings, unless a different meaning is expressly provided:

SECTION 2. NR 154.01(13m), (27m), (66m), (75m) and (106m) are created to read:

(13m) "Ambient air increment" or "air increment" means the maximum allowable increase in concentration of an air contaminant above the base line concentration of the air contaminant.

(27m) "Basic emissions unit" means the smallest collection of equipment which in combination emits or is capable of emitting any air contaminant.

(66m) "Emissions unit" means any part of a stationary source which emits or is capable of emitting any air contaminant.

(75m) "Fixed capital cost" means the capital needed to provide all of the depreciable components.

(106m) "Laboratory" means a facility or portion of a multi-use facility which does not produce a product for regular commercial use or sale and which is used primarily for scientific or technical experimentation or observation of matter for the purpose of research, development, quality assurance, analysis or teaching.

SECTION 3. NR 154.01(118) is repealed and recreated to read:

(118) "Modification" has the meaning designated in s. 144.30(20), Stats.

SECTION 4. NR 154.01(118s), (162m), (164g) and (164m) are created to read:

(118s) "Municipal garbage and refuse" means garbage and refuse, as those terms are defined in ch. NR 180, which are primarily generated by residential activities but which may include minor amounts of commercial and industrial garbage and refuse that are in the total waste stream and are not hazardous. Municipal garbage and refuse does not include sludge which is generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility.

(162m) "Reconstruction" means the removal of components of a stationary source and the substitution of those components with similar new components to such an extent that the fixed capital cost of the new components exceeds 50% of the fixed capital cost that would be required to construct a comparable entirely new stationary source. The term "reconstruction" does not apply to minor sources.

(164g) "Relocation" means the removal of a stationary source from one location and the siting of the stationary source at a different location.

(164m) "Replacement" means the physical dismantling of a stationary source and the substitution of that source with a stationary source which is similar in operating capacity and function.

SECTION 5. NR 154.04 is repealed and recreated to read:

NR 154.04 PERMIT REQUIREMENTS AND EXEMPTIONS. (1) CONSTRUCTION OR MODIFICATION AND NEW OPERATION PERMITS. No person may commence construction, reconstruction, replacement, relocation or modification of a stationary source or operate the constructed, reconstructed, replaced, relocated or modified

stationary source unless the person has a construction or modification and new operation permit for the source or unless the source is exempt from the requirement to obtain a permit under s. 144.391(4) or (5), Stats., or under this section. Applications for the construction or modification and new operation permit shall be submitted on forms which are available from the department at its Madison headquarters and district offices.

(2) SOURCES EXEMPT FROM CONSTRUCTION OR MODIFICATION AND NEW OPERATION PERMIT REQUIREMENTS. (a) Specific categories of exempt sources. The following categories of stationary sources are exempt from the requirement to obtain a construction or modification and new operation permit unless the construction, reconstruction, replacement, relocation or modification of the source is prohibited by any permit, plan approval or special order applicable to the source or the source is required to obtain a permit because of incremental growth as determined under sub. (6)(c):

1. Fuel burning equipment which will not burn any hazardous waste identified under ch. NR 181, or which has been issued a permit under ch. NR 181, and which is designed to burn the following fuels at the rates indicated:

a. Coal, coke or other solid fuels, except wood, at a heat input rate of not more than one million BTU per hour;

b. Wood alone or wood in combination with gaseous or liquid fuels at a heat input rate of not more than 5 million BTU per hour;

c. Residual or crude oil at a heat input rate of not more than 5 million BTU per hour;

d. Distillate oil at a heat input rate of not more than 10 million BTU per hour; and

e. Gaseous fuel at a heat input rate of not more than 30 million BTU per hour.

2. Equipment designed to incinerate solid wastes, which are not pathological wastes and are not hazardous wastes under ch. NR 181, at a rate of not more than 500 pounds per hour.

3. Equipment designed to dry grain at a rate of not more than 1,500 bushels per hour at 5% moisture extraction.

4. Portland concrete batching plants which are not major sources.

5. Storage tanks of petroleum liquid or nonvolatile organic compounds with a maximum capacity of not more than 40,000 gallons of petroleum liquid or of organic compounds which are not VOCs.

6. VOC storage tanks with a maximum capacity of not more than 10,000 gallons of volatile organic compounds.

7. Painting or coating operations, including associated cleaning operations, which use or will use not more than 250 total gallons of paint, coatings and solvents per month or which emit or will emit not more than 1666 pounds of volatile organic compounds per month, without considering pollution control equipment.

8. Graphic arts operations, including associated cleaning operations, which use or will use not more than 250 total gallons of coatings, inks and solvents per month or which emit or will emit not more than 1666 pounds of organic compounds per month, without considering pollution control equipment.

9. Research and testing. a. Equipment used or to be used for the purpose of testing or research provided:

1) A complete application for exemption is made describing the proposed testing or research and including an operating schedule and the types and quantities of emissions anticipated; and

2) The department determines that the equipment to be used and the anticipated emissions from the testing or research will not present a significant hazard to public health, safety or welfare or to the environment and approves the application for exemption.

b. The department shall approve or deny the application in writing within 45 days of receiving a complete application for exemption under this subdivision. The department may provide public notice of an application for research and testing exemption, may provide an opportunity for public comment and an opportunity to request a public hearing and may hold a public hearing on any application under this subdivision. The department shall make all nonconfidential information available to the public upon request.

10. A laboratory which emits organic compounds, sulfur dioxide, carbon monoxide, nitrogen oxides or particulate matter or a combination thereof at a rate of less than 5.7 pounds per hour. Emissions shall be determined, without considering pollution control equipment, by dividing the total emissions during a calendar month by the total hours of operation of the laboratory during that calendar month. A laboratory is in operation if laboratory apparatus or equipment is in use.

11. Equipment whose primary purpose is to transport or sort paper.

12. Water chlorination facilities.

13. An indirect source located in a standard metropolitan statistical area (SMSA) which meets one of the following criteria:

a. Any new parking facility, or other new indirect source, except a highway or airport, with an associated parking area, which has a parking capacity of not more than 1,000 cars.

b. Any modified parking facility or any modification of an associated parking area which increases parking capacity by not more than 500 cars.

c. Any new highway project with an anticipated annual peak hour traffic volume of not more than 1,200 vehicles per hour within 10 years of construction.

d. Any highway modification project which will increase the annual peak hour traffic volume by not more than 1,200 vehicles per hour within 10 years after modification.

14. An indirect source located outside all SMSA's which meets one of the following criteria:

a. Any new parking facility or other new indirect source, except a highway or airport, with an associated parking area which has a parking capacity of not more than 1,500 cars.

b. Any modified parking facility or any modification of an associated parking area which increases parking capacity by not more than 750 cars.

c. Any new highway project which will carry not more than 3 lanes of traffic and which has an anticipated annual peak hour traffic volume of not more than 1,800 vehicles per hour within 10 years of construction.

d. Any highway modification project which will create not more than one additional lane of traffic and which will increase the annual peak hour traffic volume by not more than 1,800 vehicles per hour within 10 years after modification.

15. An airport whose construction or general modification program is expected to result in the following activity within 10 years after construction or modification:

a. New airport: Not more than 50,000 operations per year by regularly scheduled certificated air carriers and use by not more than 1,000,000 passengers per year.

b. Modified airport: Increase of not more than 50,000 operations per year by regularly scheduled certificated air carriers over the existing volume of operations and an increase of not more than 1,000,000 passengers per year.

(b) General category of exempt sources. In addition to the specific categories of exempt sources identified in par. (a), no construction or modification and new operation permit is required prior to commencing construction, reconstruction, replacement, relocation or modification and operation of a source if:

1. The construction, reconstruction, replacement, relocation or modification and operation of the source is not prohibited by any permit, plan approval or special order applicable to the source;

2. The source will not emit sulfur dioxide, carbon monoxide or nitrogen oxides at a rate of more than 9 pounds per hour for each pollutant emitted, without considering pollution control equipment;

3. The source will not emit particulate matter or organic compounds at a rate of more than 5.7 pounds per hour for each pollutant emitted, without considering pollution control equipment;

4. The source will not emit any of the following air contaminants at a rate greater than the applicable emission rate listed:

- a. Fluorides, 3 tons per year;
- b. Hydrogen sulfide, 10 tons per year;
- c. Reduced sulfur compounds, 10 tons per year;

d. Total reduced sulfur, 10 tons per year;

e. Vinyl chloride, 1 ton per year.

5. The source will not emit 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 or any other pollutant not listed in subd. 2., 3., 4., or this subdivision which is subject to regulation under the federal clean air act as of [the effective date of this rule];

6. The source will not emit any air contaminant not mentioned in subd. 2., 3., 4., or 5., at a rate of more than 6 pounds per hour for each pollutant emitted, without considering pollution control equipment; and

7. The source is not required to obtain a permit because of incremental growth as determined under sub. (6)(c).

(c) Exempt modifications of existing sources. In addition to the exempt modifications listed in s. 144.391(4), Stats., no construction or modification and new operation permit is required prior to commencing modification of a source which is modified by the addition of a new emissions unit or by any other modification if:

1. The modification is not prohibited by any permit, plan approval or special order applicable to the source;

2. The modification is exempt under par. (a) or the emissions from the modification do not exceed the exemption levels set forth in par. (b) 2., 3., 4., 5., and 6.; and

3. The source is not required to obtain a permit because of incremental growth as determined under sub. (6)(c).

(3) EXEMPT MODIFICATIONS. (a) Use of alternate fuel or raw material. In addition to the exempt modifications listed in s. 144.391(4), Stats., no construction or modification and new operation permit is required for a source to use an alternate fuel or raw material which the source is designed to burn or use if:

1. The source has continuously had such design capability as a result of construction or modification which commenced before April 1, 1972; and

2. Such use will not cause or exacerbate the violation of an ambient air quality standard or an ambient air increment; and

3. Such use is not prohibited by any permit, plan approval or special order applicable to the source.

(b) VOC RACT compliance. No construction or modification and new operation permit is required for the modification of a source which is made primarily for the purpose of complying with the requirements of a RACT compliance plan approved under s. NR 154.13, or a VOC RACT variance approved under s. NR 154.02(3), if the modification does not cause or exacerbate the violation of an ambient air quality standard or ambient air increment for any air contaminant other than ozone.

(c) Resumption of operation. No construction or modification and new operation permit is required for the resumption of operation of a source after a period of closure if the source was never included and never required to be included in the source inventory as an existing source covered by plans under s. 144.31(1)(f), Stats., and the resumption of operation of the source will not cause or exacerbate the violation of an ambient air quality standard or an ambient air increment and will not result in the emission of a new air contaminant and the resumption of operation is not prohibited by any permit, plan approval or special order applicable to the source.

(d) Municipal waste fuel. No construction or modification and new operation permit is required for the modification of a steam-generating unit to use an alternate fuel, whether or not the unit has the design capability to use the alternate fuel, to the extent that the alternate fuel is generated from municipal garbage and refuse which has undergone a separation process to minimize noncombustible materials, if the department publishes a written determination under this paragraph that:

1. Such use will not cause or exacerbate the violation of an ambient air quality standard or ambient air increment; and

2. Any emissions of hazardous air contaminants resulting from such use will not present a significant hazard to public health, safety or welfare or to the environment.

(4) EXEMPT RELOCATIONS. (a) In addition to the approved relocated sources which are exempt from the need for an additional permit under s. 144.391(5), Stats., and the relocation of an emissions unit within the contiguous property

of an attainment area major source, no construction or modification and new operation permit is required for the relocation of an emissions unit within the contiguous property of a minor source or a nonattainment area major source if:

1. The relocation of the emissions unit is not prohibited by any permit, plan approval or special order applicable to the source;
2. The emissions unit will not be modified;
3. The emissions unit meets all applicable emission limitations; and
4. The emissions unit's stack height or stack gas exit velocity or temperature will not be decreased.

(b) If the criteria in par. (a) 1., 2., and 3. are met but the emissions unit's stack height or stack gas exit velocity or temperature will be decreased, no construction or modification and new operation permit is required for the relocation of the emissions unit if the allowable emissions from the source will not cause or exacerbate the violation of an ambient air quality standard or ambient air increment.

(5) EXEMPT REPLACEMENTS. No construction or modification and new operation permit is required for the replacement of a source if:

- (a) The replacement is for only a portion of a basic emissions unit;
- (b) Such replacement is not prohibited by any permit, plan approval or special order applicable to the source; and
- (c) The essential components of the basic emissions unit are not replaced through several partial replacements within a 12-month period.

(6) SCOPE OF EXEMPTION. (a) Exemption or the granting of an exemption under this section from the requirement to obtain a permit does not relieve any person from compliance with the emission limitations of this chapter, the air quality requirements of ch. NR 155, the reporting requirements of ch. NR 101, or with any other provision of law.

(b) If a source undergoes a modification which is exempt from the requirement to obtain a construction or modification and new operation permit under sub. (3) or s. 144.391(4), Stats., it will not for this reason be treated as a modified source for purposes of the emission limitations under this chapter.

(c) Subsequent to [the effective date of this rule], if a person constructs or modifies a stationary source in increments which individually are exempt from the requirements for a permit under this section, the person is required to obtain a construction or modification and new operation permit for the source prior to commencing construction or modification of the increment which in combination with the other increments occurring since July 1, 1975 or since the date of the last construction or modification and new operation permit or plan approval issued to the stationary source, whichever is later, will:

1. Emit sulfur dioxide, carbon monoxide or nitrogen oxides at a rate of more than 9 pounds per hour for each pollutant emitted, without considering pollution control equipment;

2. Emit particulate matter or organic compounds at a rate of more than 5.7 pounds per hour for each pollutant emitted, without considering pollution control equipment; or

3. Emit any of the following air contaminants at a rate greater than the applicable emission rate listed:

- a. Fluorides, 3 tons per year;
- b. Hydrogen sulfide, 10 tons per year;
- c. Reduced sulfur compounds, 10 tons per year;
- d. Total reduced sulfur, 10 tons per year;
- e. Vinyl chloride, 1 ton per year.

SECTION 6. NR 154.08 is repealed and recreated to read:

NR 154.08 ENFORCEMENT AND PENALTIES. (1) If the department has reason to believe that a violation of ss. 144.30 to 144.426 or 144.96, Stats., this chapter, ch. NR 101 or 155, or of a permit, plan approval or special order issued by the department under ss. 144.30 to 144.426 or 144.96, Stats., has occurred, the department may proceed under s. 144.423, Stats.

(2) Any person who violates any provision of ss. 144.30 to 144.426 or 144.96, Stats., this chapter, ch. NR 101 or 155, or a permit or special order issued by the department under ss. 144.30 to 144.426 or 144.96, Stats., is subject to the penalties provided under s. 144.426, Stats.

SECTION 7. NR 154.145 is created to read:

NR 154.145 CONTROL OF LEAD EMISSIONS. (1) GENERAL LIMITATIONS. No person may cause, allow or permit emissions into the ambient air of lead or lead compounds which substantially contribute to the exceeding of an air standard or air increment, or which creates air pollution.

(2) LEAD LIMITATIONS. No person may cause, allow or permit lead or lead compounds to be emitted to the ambient air in amounts greater than the department may establish by permit condition under s. 144.393(5) or 144.394, Stats., by rule or by special order.

SECTION 8. NR 154.19(1) is amended to read:

(1) GENERAL LIMITATIONS. No person shall may cause, ~~suffer~~, allow, or permit emissions into the ambient air of hazardous substances in such quantity, concentration, or duration as to be injurious to human health, plant or animal life unless the purpose of that emission is for the control of plant or animal life. Hazardous substances include but are not limited to the following materials, their mixtures, or compounds: asbestos, beryllium, cadmium, chromium, chlorine, fluorine, ~~lead~~, mercury, pesticides, or radioactive material.

SECTION 9. NR 154.24 is created to read:

NR 154.24 PROCEDURES FOR NONCONTESTED CASE PUBLIC HEARINGS. (1) FORM AND SERVICE OF REQUEST. (a) Any person, state or agency authorized to request a public hearing under s. 144.392(7)(a), 144.3925(5)(a) or 144.397(4)(a), Stats., shall submit such request in a form which complies with the applicable statutory requirements. The following format is a suggested format for requesting a public hearing:

TO The Department of Natural Resources:

REQUEST FOR NONCONTESTED CASE PUBLIC HEARING

The undersigned hereby requests a noncontested case public hearing on the (air pollution control permit application submitted by _____ to the department on _____, 19__)(operation permit issued by the department to _____ on _____, 19__) under section 144.392(7)(a), 144.3925(5)(a) or 144.397(4)(a), Stats., as appropriate.

The requestors' interest in filing the request is _____

The reasons why a public hearing is warranted are _____

Date of Request _____

Signature _____

Name and Address _____

(b) A request for a public hearing under this subsection shall be submitted to the department within 30 days after the publication of the class 1 notice under ch. 985, Stats., announcing the opportunity to request a public hearing on the permit or permit application. Requests for hearings shall be mailed or personally delivered to the department to the person and the address specified in the notice.

(2) NOTICE OF HEARING. (a) If the department receives a request for a hearing under sub. (1) and the department determines that there is a significant public interest in holding a hearing, the department may hold a public hearing and, if a hearing is held, shall close the record of the public hearing within 70 days after the deadline for requesting a hearing. Not less than 10 days prior to the public hearing, the department shall publish a class 1 notice under ch. 985, Stats., announcing the hearing and shall serve a

written notice of the hearing on the requestor, the permit applicant or permit holder and persons listed under s. 144.392(5)(a)2. to 5., Stats. The department may serve the notice of hearing by personal delivery or by mailing a copy of the notice to the last known post office address of the person to be served in a sealed envelope with first class postage prepaid.

(b) The notice of hearing shall contain the date, time and location of the hearing, the statutory authority for the hearing, a short summary of the matter to be considered and such other information as the department may deem appropriate.

(3) CONDUCT OF HEARING. (a) The presiding officer will open the hearing and make a concise statement of the scope and purposes of the hearing. Appearances will then be entered on the record. A person desiring to participate in the hearing shall enter his or her appearance in person by giving his or her name and address and the name and address of any party the person is representing and the capacity in which he or she is representing the party. Persons entering their appearance at the hearing may make statements and offer evidence relevant to the scope and purposes of the hearing. The hearing will be closed upon completion of the statements and submission of the evidence.

(b) The hearing may be tape recorded by the department. If the hearing is recorded and a transcript of the hearing is made by the department, copies will be furnished to any person who requests a transcript upon payment of a reasonable fee. If the hearing is recorded and no transcript is deemed necessary by the department and a person requests that one be prepared, the department instead will provide the person a copy of the tape recording of the hearing upon payment of a reasonable fee.

(c) The presiding officer will prepare a summary of the hearing for use by the department.

(4) WRITTEN COMMENTS. Any person may submit written comments on the permit application or permit review to the department during the public comment period provided for in the public notice or at any public hearing held. All written comments submitted to the department during the public comment period will have the same weight and effect as statements made by persons appearing at a public hearing.

SECTION 10. NR 154.25 is created to read:

NR 154.25 PROCEDURES FOR ALTERATION OF PERMITS BY PETITION. (1) PETITION FOR ALTERATION. Any person holding an air pollution control permit who seeks an alteration of the permit shall file a written petition for alteration of the permit with the department. The petition shall identify the permit to be altered, outline the specific provisions for which alteration is sought, and set forth the reasons why alteration is sought. The petition shall be signed by the permit holder and shall be served on the secretary, either by personal delivery to the office of the secretary, or by mailing to the secretary at the following address: P.O. Box 7921, Madison, Wisconsin 53707.

(2) NOTICE AND PUBLIC COMMENT. (a) The department shall provide written notice of the petition for alteration by publishing a class 1 notice under ch. 985, Stats., and by distributing a written notice to the persons listed

under s. 144.392(5)(a), Stats. The written notice shall contain a brief description of the alteration sought and reasons why alteration is sought, a notice of the opportunity for written public comment on the petition, and a notice of the opportunity to request a noncontested case public hearing on the petition.

(b) The department shall receive public comment on the petition for alteration for a 30-day period beginning when the department gives notice under par. (a).

(3) PUBLIC HEARING. The department may hold a noncontested case public hearing on the petition for alteration if a request for public hearing is received by the department under s. NR 154.24 within 30 days after the department gives notice under sub. (2)(a) and the department determines that there is a significant public interest in holding the hearing. A request for public hearing shall indicate the interest of the party filing the request and the reasons why a hearing is warranted. Any noncontested case public hearing held under this section shall be conducted in accordance with the procedures in s. NR 154.24.

(4) DEPARTMENT DECISION. The department may alter the permit in response to a petition for alteration. The department's decision under this subsection is effective unless a hearing on the decision is requested under s. 144.403, Stats. If the permit holder files a petition with the department within the time limit specified under s. 144.403(1)(a), Stats., the air pollution control permit remains unaltered and in effect until 10 days after service of the decision issued under s. 144.403(1), Stats., on the matter or a later date established by court order. If a person other than a permit holder files a

petition for review with the department under s. 144.403, Stats., the department may stay the effect of its decision under this subsection pending the department's decision under s. 144.403, Stats., in accordance with s. 227.09(1)(g), Stats. A stay may be granted only if the party seeking the stay has demonstrated that there is good cause for granting the stay and that the petitioner has a reasonable probability of success on the merits of the petition.

SECTION 11. NR 155.03(7) is created to read:

(7) LEAD: PRIMARY AND SECONDARY STANDARDS. The primary and secondary standards for lead and its compounds, measured as elemental lead, are: 1.5 micrograms per cubic meter, maximum arithmetic mean averaged over a calendar quarter, as a constituent of suspended particulate matter.

SECTION 12. NR 155.035 is created to read:

NR 155.035 AMBIENT AIR INCREMENTS. (1) SCOPE. The ambient air increments apply to all attainment areas of the state.

(2) CLASS I INCREMENTS. In any area of this state classified under the federal clean air act as a class I area, the ambient air increment of sulfur dioxide and particulate matter may not exceed the following amounts:

(a) Particulate matter

1. Annual geometric mean - - - - - 5 micrograms per cubic meter
2. Twenty-four hour maximum- - - - - -10 micrograms per cubic meter

(b) Sulfur dioxide

1. Annual arithmetic mean- - - - - 2 micrograms per cubic meter

- 2. Twenty-four hour maximum- - - - - 5 micrograms per cubic meter
- 3. Three hour maximum- - - - - -25 micrograms per cubic meter

(3) CLASS II INCREMENTS. In any area of this state classified under the federal clean air act as a class II area, the ambient air increment of sulfur dioxide and particulate matter may not exceed the following amounts:

(a) Particulate matter

- 1. Annual geometric mean - - - - - 19 micrograms per cubic meter
- 2. Twenty-four hour maximum- - - - - 37 micrograms per cubic meter

(b) Sulfur dioxide

- 1. Annual arithmetic mean- - - - - 20 micrograms per cubic meter
- 2. Twenty-four hour maximum- - - - - 91 micrograms per cubic meter
- 3. Three hour maximum- - - - - 512 micrograms per cubic meter

(4) CLASS III INCREMENTS. In any area of this state classified under the federal clean air act as a class III area, the ambient air increment of sulfur dioxide and particulate matter may not exceed the following amounts:

(a) Particulate matter

- 1. Annual geometric mean - - - - - 37 micrograms per cubic meter
- 2. Twenty-four hour maximum- - - - - 75 micrograms per cubic meter

(b) Sulfur dioxide

- 1. Annual arithmetic mean- - - - - 40 micrograms per cubic meter
- 2. Twenty-four hour maximum- - - - - 182 micrograms per cubic meter
- 3. Three hour maximum- - - - - 700 micrograms per cubic meter

(5) EXCEPTION FOR NON-ANNUAL CONCENTRATIONS. Notwithstanding subs.

(2)(intro.), (3)(intro.) and (4)(intro.), the ambient air increment of an air contaminant based on concentrations for any period other than an annual period may be exceeded during one such period per year.

(6) MAXIMUM CONCENTRATION. The maximum allowable concentration of any air contaminant in any attainment area may not exceed a concentration for such contaminant for each period of exposure equal to the maximum concentrations permitted under the primary or secondary air standards in s. NR 155.03.

SECTION 13. NR 155.06(4) is repealed.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on November 17, 1982.

The rules contained herein shall take effect as provided in s. 227.026(1)(intro.), Stats.

Dated at Madison, Wisconsin February 21, 1983

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)