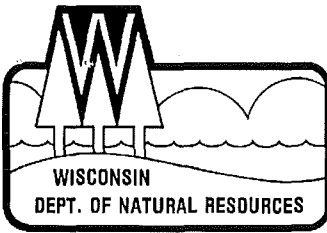


CR 95-25



George E. Meyer
Secretary

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

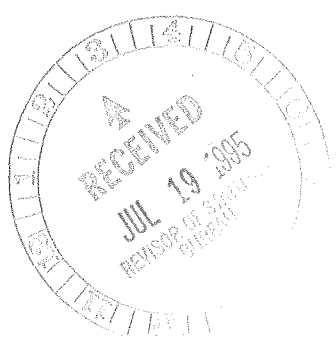
101 South Webster Street
Box 7921
Madison, Wisconsin 53707
TELEPHONE 608-266-2621
TELEFAX 608-267-3579
TDD 608-267-6897

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-11-95 was duly approved and adopted by this Department on April 27, 1995. 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 10th day of July, 1995.



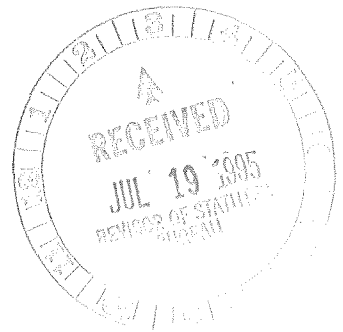
George E. Meyer
George E. Meyer, Secretary

(SEAL)

9-1-95



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



The Wisconsin Natural Resources Board adopts an order to **repeal** NR , 419.07(3)(c) and (d) and (6)(a)1.b.Note; to **renumber** NR 419.07(3)(f) and (g), (6)(a)3. to 5. and (7)(a)(intro.) and 1. to 4.; to **renumber and amend** NR 419.07(3)(e), (4)(d), (e) and Note and (6)(a)2.; to **amend** NR 400.02(98), 406.04(1)(m)(intro.), 407.03(1)(sm)(intro.), 419.04(1), 419.07(1)(intro.), (2)(a)(intro.), 2. Note and (b), (4)(a), (b) and (c)(intro.), (5)(d)1. and 2. and (6)(a)(intro.) and (b), and (8); to **repeal and recreate** NR 419.07(4)(c)1. and 2.; and to **create** NR 419.02(1p), (3c) and (3e), 419.07(4)(b)1., 2. and 3., (d) and (e), (5)(f), (6)(a)2., and (7)(e) relating to revisions of the rules regulating emissions from the remediation of contaminated soil and water.

AM-11-95

Analysis Prepared by the Department of Natural Resources

Authorizing statutes: ss. 144.31(1)(a), 144.38, 144.391(6) and 227.11(2)(a), Stats.

The proposed revisions create permanent emission limits for sources that remediate contaminated soil or water. These revisions are a follow up to the adoption of Order AM-55-93, which contained a sunset clause on the organic compound emissions limits for soil and water remediation for thermal evaporation units. The current emission limit expires on April 15, 1995.

Landfills, which were previously exempt from the emission limits contained in ch. NR 419 are now included. These emission limits were developed in response to a state legislative concern on the disposal of untreated contaminated soils in landfills. Their concerns addressed both potential air and groundwater pollution resulting from the deposition of contaminated soils in landfills. The emission limits for landfills are designated for ozone attainment and nonattainment areas.

Due to the limited knowledge of emissions from landfills, testing will be required of landfills. A portion of this rule will sunset 24 months after the enactment date requiring the Department to revisit the assumptions about landfill air emissions based on the test data received.

The permit exemption language for soil and water remediation is being clarified to ensure that sources will not be exempted from the permitting requirements of sections 111 and 112 of the Clean Air Act Amendments of 1990.

SECTION 1. NR 400.02(98) is amended to read:

NR 400.02(98) "Thermal evaporation unit" means any device which uses temperatures greater than ~~the ambient temperature or 100°F, whichever is greater,~~ 140°F to assist in evaporating organic compounds from soil or water.

SECTION 2. NR 406.04(1)(m)(intro.) is amended to read:

NR 406.04(1)(m)(intro.) The following procedures for the remediation or disposal of soil or water contaminated with organic compounds, provided the potential to emit, considering emission control devices, for any hazardous air contaminant listed in Table 1 to Table 4 5 of s. NR 445.04 is not greater than the emission rate listed in Table 1 to Table 4 5 of s. NR 445.04 for the air contaminant at the respective stack height, and the procedure is not subject to any standard or regulation under section 111 or 112 of the act (42 USC 7411 or 7412):

SECTION 3. NR 407.03(1)(sm)(intro.) is amended to read:

NR 407.03(1)(sm)(intro.) The following procedures for the remediation or disposal of soil or water contaminated with organic compounds, provided the potential to emit, considering emission control devices, for any hazardous air contaminant listed in Table 1 to Table 4 5 of s. NR 445.04 is not greater than the emission rate listed in Table 1 to Table 4 5 of s. NR 445.04 for the air contaminant at the respective stack height, and the procedure is not subject to any standard or regulation under section 111 or 112 of the act (42 USC 7411 or 7412):

SECTION 4. NR 419.02(1p), (3c) and (3e) are created to read:

NR.419.02(1p) "Beneficial use or reuse" has the meaning given in s. NR 500.03.

(3c) "Landfill" has the meaning given in s. NR 500.03.

(3e) "Landspreading facility" has the meaning given in s. NR 500.03.

SECTION 5. NR 419.04(1) is amended to read:

NR 419.04(1) Effective August 1, 1979, no person may cause, allow or permit the disposal of more than 5.7 liters (1.5 gallons) of any liquid VOC waste, or of any liquid, semisolid or solid waste materials containing more than 5.7 liters (1.5 gallons) of any VOC, in any one day from a facility in a manner that would permit their evaporation into the ambient air during the

ozone season, except as provided for in s. NR 419.07. This includes, but is not limited to, the disposal of VOC which must be removed from VOC control devices so as to maintain the control devices at their required operating efficiency.

SECTION 6. NR 419.07(1)(intro.), (2)(a)(intro.), 2. Note and (b) are amended to read:

NR 419.07(1)(intro.) APPLICABILITY. This section applies to all facilities and procedures used to remediate or dispose of soil or water contaminated with organic compounds which are direct air contaminant sources and to their owners and operators.

(2)(a)(intro.) Except as provided in sub. (3), no person may use any procedure to remediate or dispose of soil or water contaminated with organic compounds unless the person has submitted a complete soil or water remediation notification form to the ~~department's bureau of air management~~ department, complies with par. (c) and, when applicable, has received approval or conditional approval under par. (b). Notification shall be postmarked or delivered as follows:

2. Note: For remediation projects other than virgin petroleum liquid contamination projects, department approval may be required.

(b) The ~~department's bureau of air management~~ department may approve, conditionally approve or deny approval for a remediation project described in the notification required in par. (a)2.

SECTION 7. NR 419.07(3)(c) and (d) are repealed.

SECTION 8. NR 419.07(3)(e) is renumbered 419.07(3)(c) and amended to read:

NR 419.07(3)(c) ~~Landspreading of contaminated soil, including the agricultural~~ Agricultural landspreading of soil contaminated with pesticide or fertilizer.

SECTION 9. NR 419.07(3)(f) and (g) are renumbered 419.07(3)(d) and (e).

SECTION 10. NR 419.07(4) (a) and (b) are amended to read:

NR 419.07(4) (a) An owner or operator of a soil or water remediation project shall treat or dispose of soil or water contaminated with organic compounds in a manner which minimizes the emission of volatile organic compounds and hazardous air contaminants, including emissions during the handling, transportation and storage of the contaminated soil or water.

(b) ~~The organic compound emissions from the remediation or disposal of contaminated soil or water may not exceed 9.0 pounds of organic compounds per hour and any specific limit in ch. NR 445, except as specified in par. (c).~~

SECTION 11. NR 419.07(4) (b)1., 2. and 3. are created to read:

NR 419.07(4) (b)1. 5.7 pounds of volatile organic compounds per hour in Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington or Waukesha county, except as specified in pars. (d) and (e).

2. 9.0 pounds of volatile organic compounds per hour in counties not listed in subd. 1., except as specified in pars. (c), (d) and (e).

3. The maximum emission rate permitted for any hazardous air contaminant under ch. NR 445.

SECTION 12. NR 419.07(4) (c) (intro.) is amended to read:

NR 419.07(4) (c) (intro.) When remediating soil or water, thermal evaporation units shall meet the following volatile organic compound emission limits: ~~until April 15, 1995. Thereafter thermal evaporation units shall meet the organic compounds emissions limit in par. (b) when remediating soil or water. Organic compounds emissions shall be calculated per par. (d).~~

SECTION 13. NR 419.07(4) (c)1. and 2. are repealed and recreated to read:

NR 419.07(4) (c)1. 5.7 pounds per hour in Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington or Waukesha county.

2. 9.0 pounds per hour or 137 pounds per day in counties not listed in subd. 1.

SECTION 14. NR 419.07(4) (d), (e) and Note are renumbered 419.07(4) (f), (g) and Note and amended to read:

NR 419.07(4) (f) ~~The~~ Except as provided for in sub. (6), the volatile organic compound emissions for pars. (b), and (c), and (d) 1.a. and 2.a. and b. and the organic compound quantity for pars. (d) 1.b., 2.c. and (e) are determined by averaging the contaminant concentrations in all samples of the contaminated soil or water analyzed and multiplying that average by the total amount of soil or water to be remediated. If in any sample there is no contamination detected, the detection level of the test method is used for the contaminant concentration in that sample.

(g) The volatile organic compound emissions determined for pars. (b) and (c), and the organic compound quantities determined for pars. (d) and (e), may be reduced by any ~~control~~ method approved by the bureau of air management.

Note: ~~Control methods~~ Methods may include but are not limited to ~~stack test results~~ approved destruction efficiency, afterburners, carbon absorption units, etc.

SECTION 15. NR 419.07(4) (d) and (e) are created to read:

NR 419.07(4) (d) When receiving contaminated soil for disposal or beneficial use or reuse, landfills shall comply with the following limitations:

1. In Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington or Waukesha county, either of the following:

a. Volatile organic compound emissions may not exceed 5.7 pounds per hour.

b. The concentration of volatile organic compound contaminants in the soils accepted may not exceed 250 mg/kg.

2. In all counties not listed in subd. 1., one of the following:

a. Volatile organic compound emissions may not exceed 9.0 pounds per hour.

b. The volatile organic compound concentration, as measured midway between vertical gas extraction wells at a landfill that has an operating active gas extraction system or at the face of any landfill that does not have an operating active gas extraction system, may not exceed 500 ppm, until

August 1, 1997. Thereafter landfills shall meet the requirements in subd. 2.a. or c.

c. In all contaminated soils accepted with a volatile organic compound concentration of greater than 250 mg/kg, the total quantity of volatile organic compounds may not exceed 25 tons per year.

Note: Chapter NR 722 has further limitations on the amount of contaminated soil that may be disposed of in landfills.

(e) When remediating contaminated soil, landspreading facilities shall comply with the following limitations:

1. In Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington or Waukesha county, the organic compound contaminants in the soil treated at a site may not exceed 2,000 pounds per year.

2. In all counties not listed in subd. 1., the organic compound contaminants in the soil treated at a site may not exceed 6,000 pounds per year.

3. Projects shall be limited to on-site remediation unless the project has been approved under ch. NR 502 or 518.

SECTION 16. NR 419.07(5)(d)1. and 2. are amended to read:

NR 419.07(5)(d)1. The asphalt plant shall have had a compliance stack test for particulate matter within the last 5 calendar years which determined that the particulate matter emission rate during the test did not exceed ~~0.04 grains per dry standard cubic foot~~ 90 mg/dscm (0.039 gr/dscf), not including backhalf condensable particulate matter.

2. If an asphalt plant has had more than one compliance test during the last 5 calendar years, the results of the most recent test ~~will~~ shall be used for purposes of demonstrating compliance with this section.

SECTION 17. NR 419.07(5)(f) is created to read:

NR 419.07(5)(f) Relocation. Any portable source relocating shall file notification with the department's air management program, as specified in s. 144.391(5)(a), Stats., and s. NR 406.15. The signed notification shall be

accompanied by a plot plan showing the layout of the site including the location and heights of any buildings, factories, schools, residences or public places in the vicinity of the proposed remediation site.

SECTION 18. NR 419.07(6)(a)(intro.) is amended to read:

NR 419.07(6)(a)(intro.) Testing of emissions from facilities or procedures used to remediate or dispose of soil or water contaminated with organic compounds shall be conducted using test methods approved in advance by the department's bureau of air management. Testing shall be scheduled and reported as follows:

SECTION 19. NR 419.07(6)(a)1.b.Note is repealed.

SECTION 20. NR 419.07(6)(a)2. is renumbered NR 419.07(6)(a)3. and amended to read:

NR 419.07(6)(a)3. Any facility or procedure used to remediate soil or water contaminated with organic compounds, except for negative pressure venting and landfills, may be required to test the emissions from the remediation according to a schedule determined by the department's bureau of air management.

SECTION 21. NR 419.07(6)(a)2. is created to read:

NR 419.07(6)(a)2. Any landfill subject to sub. (4)(d)2.b. shall test at a minimum of once per month during the ozone season on a schedule approved in advance in writing by the Department.

SECTION 22. NR 419.07(6)(a)3. to 5. are renumbered NR 419.07(6)(a)4. to 6.

SECTION 23. NR 419.07(6)(b) is amended to read:

NR 419.07(6)(b) Testing of contaminated soil or water required by the department shall be conducted by the ~~owner of the contaminated soil or water~~

~~or by the owner's representative~~ responsible party as defined in s. NR 700.03 (51).

SECTION 24. NR 419.07(7) (a) (intro.) and 1. to 4. are renumbered 419.07(7) (intro.) and (a) to (d).

SECTION 25. NR 419.07(7) (e) is created to read:

NR 419.07(7) (e) Meet the requirements of ss. NR 438.03 and 439.03.

SECTION 26. NR 419.07(8) is amended to read:

NR 419.07(8) WAIVER. The department may waive compliance with any requirement of this section to the extent necessary to prevent an emergency condition which threatens public health, safety, ~~or~~ welfare or the environment.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on April 27, 1995.

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

July 10, 1995
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary

(SEAL)

