

CRITERIA FOR LISTING HAZARDOUS AIR CONTAMINANTS NOT REGULATED BY EPA

(Sept. 10, 2003)

Draft Proposal – Not for Distribution

Objective – *Establish criteria and related findings necessary before DNR can regulate hazardous air contaminants not regulated by EPA.*

Background: The Legislature, under s. 285.27 (2), set forth a general policy that regulating hazardous substance not regulated by EPA are allowed, but only upon a finding such regulation is necessary. The existing provision provides that “If an emission standard for a hazardous air contaminant is not promulgated under section 112 of the federal clean air act, the department may promulgate an emission standard for the hazardous air contaminant **if the department finds the standard is needed to provide adequate protection for public health and welfare.**”

DNR recently promulgated significant revisions to the existing air toxics rules (NR 445). In some ways the rule was improved during the 3-year advisory committee process. But despite these changes, expanding the program by adding 144 new substances (bringing the total to 577) and lowering many thresholds substantially increases the reach of the rule and creates new burdens for sources already regulated under NR 445. The federal program regulates 188 substances. Although DNR made the requisite “finding” that the regulation of these additional substances was need, they did not undertake any analysis that the substances posed any actual environmental or health risks. Thus, the benefits were never quantified, much less shown to be sufficient to justify the \$100 million price tag industry must cover in the first year.

DNR’s mercury initiative, also recently promulgated after year of advisory committee deliberation, had similar policy defects. Proceeding with a state-only mercury rule at this time would impose substantial burdens on utilities targeted by rule, and substantially increase the cost of doing business in Wisconsin through higher electric rates. The proposal would have little impact on Wisconsin water quality, and the effort will be proved meaningless because state law requires such standards to be superseded by pending federal mercury standards.

The primary policy defect that needs to be addressed is the lack of any legislative direction on what factors or other considerations should be part of the finding of need. The result is that DNR has a blank check to add any substances not regulated by EPA.

A related issue is the inherent inconsistencies and duplication resulting from both a comprehensive federal and state program to regulate hazardous air contaminants. For example, the 1990 amendments to the federal program restructured prior law with an objective to regulate area source and industrial categories rather than concentrating on individual pollutants. In contrast, the state program continues to target individual pollutants, create inconsistencies and complexities. In addition, separate administrative components relating to permitting, monitoring and compliance requirements create additional inconsistencies and unnecessary redundancies.

Proposal: Revised s. 285.27 as follows:

285.27 Performance and emission standards.

(1) Standards of performance for new stationary sources.

(a) *Similar to federal standard.* If a standard of performance for new stationary sources is promulgated under section 111 of the federal clean air act, the department shall promulgate by rule a similar emission standard but this standard may not be more restrictive in terms of emission limitations than the federal standard except as provided under sub. (4).

(b) *Standard to protect public health or welfare.* If a standard of performance for any air contaminant for new stationary sources is not promulgated under section 111 of the federal clean air act, the department may promulgate an emission standard of performance for new stationary sources if the department finds the standard is needed to provide adequate protection for public health or welfare.

(c) *Restrictive standard.* The department may impose a more restrictive emission standard of performance for a new stationary source than the standard promulgated under par. (a) or (b) on a case-by-case basis if a more restrictive emission standard is needed to meet the applicable lowest achievable emission rate under s. 285.63 (2) (b) or to install the best available control technology under s. 285.63 (3) (a).

(2) Emission standards for hazardous air contaminants.

Note: Redefine "emission standard" to include "related requirements" such as permitting, monitoring, and compliance; or in the alternative, direct consistency with those requirements here.

(a) *Similar to federal standard.* If an emission standard for a hazardous air contaminant is promulgated under section 112 of the federal clean air act, the department shall promulgate by a rule that incorporates a similar such standard and related requirements, but ~~that~~ rule may not be more restrictive in terms of emission limitations or otherwise more burdensome to affected sources than the comparable federal standard requirements except as provided under sub. (4).

(b) *Standard to protect public health or welfare.* If an emission standard for a hazardous air contaminant is not promulgated under section 112 of the federal clean air act, the department may promulgate an emission standard for the hazardous air contaminant if the department finds the standard is needed to provide adequate protection for public health or welfare. The department's finding shall be supported with written documentation relating to each hazardous air contaminant that includes all of the following:

1. A human health and ecological risk assessment that characterizes the Wisconsin sources known to release the hazardous air contaminant and the receptors that are potentially at risk from the release.

Note: "Recognized environmental health standards" needs further refinement, possibility looking at federal data quality act provisions

2. An analysis and related finding that identified receptors are subjected to inhalation levels of the hazardous air contaminant above recognized environmental health standards.

3. An evaluation risk management options considering risks, costs, economic impacts, feasibility, energy, safety and other relevant factors, and a finding that the preferred risk management option reduces risks in the most cost-effective manner practicable.

Note: Add provisions clarifying that those sources subject to federal requirements are exempt from state rules.

(c) *Restrictive standard.* The department may impose a more restrictive emission standard for a hazardous air contaminant than the standard promulgated under par. (a) or (b) on a case-by-case basis if a more restrictive standard is needed to meet the applicable lowest achievable emission rate under s. 285.63 (2) (b) or to install the best available control technology under s. 285.63 (3) (a).

(3) Limitation on imposition of emission standards. The department may not impose emission standards on a coal-powered car ferry that was manufactured before 1954 and has operated only on Lake Michigan if the coal-powered car ferry does not burn coal with a higher sulfur content than the coal burned before May 2, 1990.

(4) Impact of change in federal standards. If the standards of performance for new stationary sources or the emission standards for hazardous air contaminants under the federal clean air act are relaxed, the department shall alter the corresponding state standards unless it finds that the relaxed standards would not provide adequate protection for public health and welfare. The department's finding shall be supported with that written documentation required under subsection (b). This subsection applies to state standards of performance for new stationary sources and emission standards for hazardous air contaminants in effect on April 30, 1980, if the relaxation in the corresponding federal standards occurs after April 30, 1980.

Talking Points

Air Quality & Concentrated Animal Feeding Operations

September 26, 2003

- **Grow Wisconsin Initiative.** The Governor's Grow Wisconsin Initiative includes improving procedures for agricultural siting and expansion. DATCP is leading this effort in collaboration with environmentalists, the agriculture industry, and local and state government. As a participant, the DNR fully supports this effort and will rely on it to guide our work in this area. Ongoing discussions of this siting committee have included recommendations to address dust, odor, and other environmental concerns associated with livestock operations.
- AS w/ NON-PT.
▪ **Performance Standards.** To date, the siting committee believes performance standards are the appropriate mechanism for siting all sizes of new or expanding livestock facilities. We fully agree. The Department's recent run-off regulations follow this model. A performance standards approach developed in collaboration with environmentalists, industry, and regulators is our preference for addressing the full range of environmental impacts associated with livestock operations.
- **Federal Dialogue.** There is an ongoing policy dialogue at the federal level concerning air emissions from livestock operations. We anticipate aligning our efforts with national guidelines, once they are established.
- **Open, Collaborative, Multi-Media Approach in Wisconsin.** Whatever approach is taken in Wisconsin, all partners need to be part of the development.
- **Ambient Air Monitoring.** We have conducted a limited amount of ambient air monitoring of livestock operations and have not documented air pollutant concentrations of concern from a human health perspective.
- **Current Air Regulations.** As with other sources of air emissions, livestock operations are subject to the ambient air quality standards for criteria and hazardous air pollutants. Any air permit application for these pollutants submitted to the DNR, whether from a manufacturing facility or from a livestock operation, will be processed in accordance with the procedures established in the Wisconsin Statutes and Wisconsin Administrative Code.
- **Proposed Revisions to State Hazardous Air Pollutant Rule (NR 445).** The proposed revisions to the state hazardous air pollutant regulations greatly streamline the permitting process. Facilities would be able to certify that they meet state emission standards rather than undergo the construction permit review and issuance process. In addition to making the process simpler and quicker, this provision also ensures that state only requirements do not become subject to federal enforcement.



WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

October 3, 2003

Mr. Scott Hassett, Secretary
Department of Natural Resources
101 South Webster Street
Madison, WI 53702

RE: Clearinghouse Rule 02-097, Control of Hazardous Air Contaminants

Dear Secretary Hassett,

This letter follows up on the requests from earlier this year by the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources for modifications in Clearinghouse Rule 02-097.

This rule relates to the control of hazardous air contaminants under NR 445. While the rule contains many desirable features – the safe harbor and incidental emitters provisions, which we commend the Department for including – we have three main concerns with the rule that we ask the Department to address in modifications to it. Those concerns relate to the Department's procedures for determining the need to expand the list of hazardous air contaminants in the rule, the treatment of diesel generators, and potential for regulation of malodorous emissions from agriculture operations and livestock.

Need to Regulate Additional Contaminants

Under s. 285.27 (2) (b), Stats., if the U.S. Environmental Protection Agency has not promulgated an emissions standard for a hazardous air contaminant under SEC. 112 of the Federal Clean Air Act, the Department of Natural Resources (DNR) may promulgate an emissions standard for the contaminant if the DNR "*finds the standard is needed to provide adequate protection for public health or welfare*" (emphasis added).

Upon reviewing Clearinghouse Rule 02-097, we believe the methodology used to identify chemicals to add to ch. NR 445 and to set emission limits for the added chemicals is incomplete, and thus inadequate. In particular, for most of the chemicals on the lists in the rule – other than the list for incidental emitters – it appears the principal criterion used by the Department in selecting a chemical and setting the emission limit is the toxicity of the chemical.

We believe toxicity is only one of a number of considerations that needs to go into making a finding that a particular standard or limit is needed to provide adequate protection for public health or welfare. Other information the Department should consider and document as part of its risk matrix in establishing an appropriate emission limit for a hazardous air contaminant emitted by a specific class of sources in Wisconsin include:

1. Identification of the known sources in Wisconsin that release the contaminant and the magnitude of their releases, and identification of human populations susceptible to these releases.
2. Analysis of the expected exposure of susceptible populations to the contaminant and whether that exposure will result in the intake of amounts of the contaminant above applicable health or environmental standards.
3. Evaluation of alternative control strategies, including alternative emission limits, for addressing exposures that exceed relevant health or environmental standards to identify the preferred alternative that is most practical and cost-effective.

We request the Department apply this risk matrix in the current rule-making to all of the chemicals added to the lists in ch. NR 445 by the rule-making. To facilitate this effort, the Department could group the chemicals in appropriate categories to establish priorities and to facilitate applying the risk matrix first to the chemicals that are believed to pose the most significant health concerns.

In addition, we request the risk matrix be incorporated into s. NR 445.13, relating to review of hazardous air contaminant requirements, so the matrix will be applied to any new chemical being considered for future addition to ch. NR 445. Section 445.13 should also be amended to state a policy that before additional chemicals, beyond those identified in Clearinghouse Rule 02-097, are added to ch. NR 445, all of the chemicals in the original version of ch. NR 445 and their associated emission limits will be reviewed under the risk matrix.

Diesel Generators

We believe the provisions in s. NR 445.09 that establish fuel, control, and compliance requirements for "compression ignition internal combustion engines combusting fuel oil" (i.e., diesel generators) are unnecessary in light of existing and pending federal regulations of diesel fuels and engines and of engine test facilities. As such, we request the rule be modified to remove s. NR 445.09 and related references to this section.

Exemption for Agriculture and Livestock

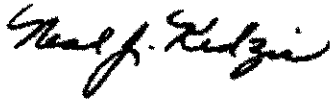
We believe neither the intent nor the content of proposed NR 445 allows for the regulation of emissions from animal waste, animal waste byproducts or other agricultural waste, and we trust the department shares our position. However, we are concerned the potential exists for this rule to be interpreted in this manner and thus request the inclusion of the following language:

1. Emissions resulting from the degradation, digestion, processing, handling, treatment, storage or disposal of animal waste, animal waste byproducts or other agricultural waste from all agricultural facilities and livestock operations be exempt from any requirements imposed by, or arising from, Wisconsin Administrative Code Chapter NR 445 including, but not limited to, air permitting requirements.

2. Within the context of the clarification of the NR 445 exemption, "agricultural facility" and "livestock operation" be defined in accordance with the definitions currently contained in Wisconsin's non-point water quality protection statute, ss. 281.16(a) and (c) Wis. Stats, respectively.
3. The Department shall identify any other statute or administrative rule under which the Department has, or may have, the authority to regulate odor or any other air emission from agricultural facilities or livestock operations in Wisconsin.

We appreciate the assistance of Department staff in providing information on the rule and the patience of the Department as we reviewed the rule. Thank you for your consideration of the modifications described in this letter.

Sincerely,



Senator Neal Kedzie
Senate Environment and Natural Resources Chair
11th Senate District



Representative DuWayne Johnsrud
Assembly Natural Resources Chair
96th Assembly District

NK:DJ:wu:dpj

Midwest Environmental ADVOCATES

pro bono publico

Contact: Andrew Hanson
Midwest Environmental Advocates, Inc.
(608) 251-5047 ext. 2
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Russ Tooley
Centerville CARES
(414) 940-5287

FOR IMMEDIATE RELEASE
October 7, 2003

Livestock Factories Seek Exemption From Air Quality Laws

Madison, WI—In an effort to insulate agribusiness from air pollution laws, Senator Neal Kedzie and Representative DuWayne Johnsrud have sent a letter to the DNR requesting that the DNR exempt livestock factories and other agricultural sources of air pollution from the state's hazardous air pollution regulations.

"This exemption will let livestock factories off the hook for emitting hazardous air pollutants like ammonia," said Russ Tooley, leader and member of Centerville Citizens for Air, River, and Environmental Solutions (Centerville CARES). Mr. Tooley believes that, "Senator Kedzie and Representative Johnsrud should try getting out of Madison and experiencing the air pollution from a livestock factory before giving these factories any more special favors."

Livestock factories emit noxious odors and air pollution, including ammonia, from their animal waste pits and freestall barns. Ammonia is a toxic gas that is generated from animal waste and can cause eye, nose, and throat irritation as well as general discomfort to those exposed. The DNR has identified ammonia as a hazardous air pollutant.

When mixed with other atmospheric gases, studies show that ammonia can also form a chemical variant known as ammonium nitrate that contaminates nearby land and water. The nitrogen-based compound acts as a catalyst for algal growth in streams similar to runoff from animal waste and residential lawn fertilizers.

"This is another example of how powerful agribusiness refuses to be held accountable for harming the rural quality of life in Wisconsin," said Andrew Hanson, attorney with Midwest Environmental Advocates, Inc., a nonprofit environmental law center that represents the public interest in clean air and water. "We can't sacrifice our public health standards to protect polluting livestock factories," he added.

The effort to exempt factory farms from air quality regulations is the latest special favor to agribusiness in Wisconsin. Wisconsin's Right to Farm law already protects livestock

factories from being held accountable for causing odor and dust problems for their neighbors. There is also an ongoing legislative effort to limit local control over land use problems associated with factory farms.

“Combine these agri-business protections with the proposed air regulation exemption for livestock factories and Wisconsin’s rural communities will have few, if any, rights under the law to defend themselves,” according to Melissa Scanlan, Executive Director of Midwest Environmental Advocates, Inc.

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DATE: October 21, 2003 FILE REF: 4533

TO: Members of the Natural Resources Board

FROM: Scott Hassett – AD/5

SUBJECT: Legislative Review of the Proposed Revisions to Ch. NR 445, Wisconsin's Hazardous Air Contaminant Regulations

ISSUE STATEMENT

Should the Department adopt modifications to the hazardous air contaminant regulations (AM-34-02) based on legislative committee requests?

RECOMMENDATION

I recommend that the Board adopt the attached modifications to the hazardous air contaminant regulations related to the procedure for listing additional substances in NR 445 and the regulation of emissions from agricultural facilities and livestock operations.

I also recommend that the Committees be informed that the Department does not believe the request to remove the section of the rule related to regulating diesel generators is warranted. The existing and pending federal regulations do not apply to the sources regulated under the proposed revisions, as suggested in the letter from the committee chairs.

BACKGROUND

The Natural Resources Board adopted the proposed revisions to ch. NR 445 and related regulations pertaining to the regulation of hazardous air contaminants (Order AM-34-02) on April 22, 2003. The Senate Environment and Natural Resources Committee and the Assembly Natural Resources Committee held a joint hearing on the rule order on May 22, 2003 and, on May 28th, sent letters requesting the Department to make unspecified modifications to the rule package. Department staff met with legislative staff on June 11th to review and explain the rationale for the Department's recommended approaches on issues that were raised in the hearing testimony.

On October 3, 2003, the committee chairs sent a letter to the Department requesting specific modifications to Order AM-34-02. A copy of the letter is included as Attachment 1. The chairs requested modifications in three areas: the proposed procedures for determining the need to expand the list of hazardous air contaminants in the rule, the treatment of diesel generators, and the potential for regulation of malodorous emissions from agriculture operations and livestock.

ANALYSIS OF REQUESTED MODIFICATIONS

Process for determining the need to regulate additional contaminants

The committee chairs requested:

- The application of a risk matrix to all the chemicals proposed for addition to NR 445 in this rule-making. The matrix should include an identification of known sources in Wisconsin that release the



contaminant, an analysis of the expected population exposure and associated risk, and an evaluation of alternative control strategies.

- The inclusion of the risk matrix into the rule for future additions to NR 445, and
- A review of all currently listed chemicals against the risk matrix before any additional chemicals are added to NR 445.

The concern regarding the listing procedure was voiced by Wisconsin Manufacturers and Commerce (WMC) during the legislative hearing. Department and WMC staff met and developed a proposal that both parties find acceptable. The proposed modification includes the following:

- The addition of three criteria that the department would consider in future rule updates:
 - a. an evaluation of sources in Wisconsin that release or are likely to release the contaminant
 - b. an evaluation of the expected population exposure to the contaminant and related risks
 - c. an evaluation of alternative control strategies that includes consideration of costs
- The deletion from this round of rule-making of 41 additional substances, or about a third of the originally proposed additions. These substances would need to be reviewed against these criteria before being added to NR 445.
- The requirement that the new substances being listed in NR 445, about 2/3 of the originally proposed additions, would be reviewed against the new criteria prior to future additions to the list of regulated substances.

The 41 substances proposed for deletion from this rule-making are ones that were identified as having a low probability for air emissions in Wisconsin by the UW-Extension Solid and Hazardous Waste Education Center and Kestrel Management Consultants. They are either pharmaceuticals/medicinals or are not expected to be in products used or expected to be emitted by industry in Wisconsin, according to a review of a national database of Material Safety Data Sheets.

Diesel Generators

The committee chairs requested that the proposed regulations pertaining to diesel generators be removed, stating that they believe them to be unnecessary in light of existing and pending federal regulations.

This appears to be a misunderstanding of the federal regulations. No existing or pending federal regulations addresses diesel particulate emissions from stationary sources. The existing or pending federal regulations that do address particulate emissions only apply to mobile sources. NR 445 applies to stationary sources only and regulates emissions of diesel exhaust particulate.

Exemption for Agriculture and Livestock

The committee chairs also requested that agricultural facilities and livestock operations be exempted from NR 445, including the air permitting requirements. Their letter states they believe that it was neither the intent nor the content of the proposed NR 445 to regulate emissions from these sources.

Department staff recommend a modification ^{NOTE HAS NO TEETH} to add a note to NR 445. The note clarifies that it is not the intent of the Department to apply NR 445 emission limitations to emissions from agricultural facilities or livestock operations. It also states that the Department believes performance standards are the preferred approach to controlling air emissions from these sources.

The control of emissions from agricultural sources was not discussed during the three-year Technical Advisory Group process. The intent was to address air emissions from agricultural activities concurrently with other environmental concerns through a best management practice or performance standard approach. The Department is a member of the Agricultural Siting Committee that is charged with

improving procedures for agricultural siting and expansion, including recommendations to address dust, odor and other environmental concerns. The Committee is led by the Department of Agriculture, Trade and Consumer Protection and is composed of representatives from environmental groups, the agriculture industry, and local and state governments. The Department believes this is the appropriate venue for addressing these issues in an open, collaborative and multi-media manner.



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NEWS RELEASE

Sierra Club Midwest Regional Office
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FOR IMMEDIATE RELEASE
OCTOBER 21, 2003

FOR MORE INFORMATION CONTACT:
Eric Uram 608-257-4994, 608-347-8008-cell
Caryl Terrell, 608-256-0565

Sierra Club calls on Governor and DNR Board "Stand tall for cleaner air, control toxic pollution"

*Never
spoke
w/ us.*

BARABOO, WI – A presentation by Wisconsin Department of Natural Resources Secretary Hassett will show the direction of the Doyle administration for people's health and the future of Wisconsin's tourism economy -- no matter what the content. Secretary Hassett is scheduled to present the DNR's thoughts on altering two rules returned to the agency by two legislative standing committees at the Natural Resources Board Baraboo meeting.

"Clean fish and cancer-free air could be the tangible results of this action item before the Natural Resources Board," said Caryl Terrell, legislative director for the John Muir Chapter Sierra Club. "Mercury pollution threatens our state's tourism economy and toxic air pollution increases asthma attacks and been linked with cancer."

Every lake and river in Wisconsin has a health warning due to widespread mercury contamination of fish. Families near clusters of industrial plants are subject to a toxic soup of cancer-causing air pollution. The agency proposed rules on air toxics, NR 445, and the first-ever mercury emission rule, NR 446; last spring.

"Polluting companies and their lobbyists worked overtime to convince two legislative standing committees to stall and weaken rules to address mercury and cancer-causing air pollution," said Terrell. "But Secretary Scott Hassett can show the commitment of the Doyle Administration to clean healthy air for our families and tourist anglers by standing tall for cleaner air and controlling toxic air pollution."

"Mercury and toxic air pollution threaten public health. Ignoring it doesn't make it go away," said Eric Uram, Regional Representative for the Midwest Office of the Sierra Club. Uram served on two ad hoc committees that drafted the two rules with DNR staff to meet the concerns of affected industries and utilities, public health officials, neighbors of air pollution sources and fishing advocates.

"The rules are based on sound science and represent the agency's best efforts to protect both the public's health and industry's profits. To backpedal now only promotes a political agenda," added Uram.

"There is a better way. There are real-world solutions to ending fish advisories and reducing birth defects, disease and premature deaths from the toxic soup of chemicals people are exposed to in the air they breathe. Protecting the health of our families is at stake. The alternative, allowing this pollution to remain uncontrolled, is to ignore the effect it has on public health. In fact, it would imply that public health is unimportant and releasing this pollution should have no consequence," concluded Uram.

Johnson, Dan (Legislature)

From: Loomans, Scott
Sent: Tuesday, October 21, 2003 8:31 AM
To: Johnson, Dan (Legislature)
Subject: FW: diesel

Here is the pitch that Al and Caroline were making to us last night. I told them that I would talk to the boss.

-----Original Message-----

From: Garber, Caroline M
Sent: Monday, October 20, 2003 5:47 PM
To: Loomans, Scott
Subject: diesel

Scott --

I promised to send you some information on diesel generators.

Regarding portable generators, the NR 445 diesel control requirements only apply to engines that stay or are intended to stay in a single location for twelve consecutive months and combust or intend to combust 10,000 gallons or more of fuel during that period of time. (NR 445.09(3)).

Some of the other issues that were raised by the Transportation Builders and other groups that we resolved are:

1. allowing non-regulated diesel generators to be used during maintenance or repair of an engine with NR 445 emission controls [NR 445.09(1)(d)]
2. when does a rebuilt engine become a "new engine" for purposes of meeting the standards -- when the fixed capital costs in any 12 month period exceed 50% of the fixed capital cost to purchase a comparable entirely new engine. [NR 445.02(13)]
3. We also had discussions on record-keeping requirements and came up with fairly simple requirements that are records that are already kept by industry to manage their engines. [NR 445.09(6)]

I hope this helps. If you have any other questions about this issue or would like to discuss it, please give me a call at 264-9218 or send me an e-mail.

 **Caroline Garber**

Chief, Environmental Studies Section
Bureau of Air Management
Wisconsin Department of Natural Resources

(☎) phone: (608) 264-9218
(☎) fax: (608) 267-0560
(✉) e-mail: Caroline.Garber@dnr.state.wi.us

Midwest Environmental
A D V O C A T E S
pro bono publico

FOR IMMEDIATE RELEASE
October 22, 2003

Contact: Melissa Scanlan
Midwest Environmental Advocates, Inc.
(608) 251-5047 ext. 3

**Midwest Environmental Advocates calls on Natural Resources Board
to Protect Public Health and Tourism**

Madison, WI – Today the Natural Resources Board for Wisconsin's Department of Natural Resources (DNR) will set a course that will have long term impacts on public health in Wisconsin. The Natural Resources Board is considering two rules: one to control mercury contamination and the other to control a broad array of air toxics.

"The State has the responsibility to ensure that we have clean fish to eat and clean air to breathe, and these rules present a path of progress towards those goals," said Melissa K. Scanlan, Executive Director of Midwest Environmental Advocates.

Every lake and river in Wisconsin has a health warning due to widespread mercury contamination of fish. Families who live near industrial plants are subject to a toxic soup of air pollution that can cause cancer, reproductive problems, and developmental disabilities. The failure to take action to correct this harms public health and our quality of life.

The DNR proposed rules on air toxics, NR 445, and the mercury emission rule, NR 446, last spring. The Republican-controlled legislative standing committees sent them back to the DNR, and now the Natural Resources board must decide once again whether to take action.

Midwest Environmental Advocates encourages the Natural Resources Board to reaffirm its prior decision to adopt strong mercury emission regulations for utilities in Wisconsin and air toxic regulations for all industries.

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Wisconsin Stewardship Network

Wisconsin Wildlife Federation

For Immediate Release

October 22, 2003

Contact:

Marc Looze, Wisconsin Stewardship Network 608.347.1714

George Meyer, Wisconsin Wildlife Federation 608.516.5545

Sporting, Environmental Groups Urge Natural Resources Board to Reject the Legislative Attack on Mercury Reductions

Baraboo, WI—The Wisconsin Wildlife Federation and Wisconsin Stewardship Network, which together are made up of over 130 sporting and environmental organizations, urged the Natural Resources Board to protect Wisconsin's health, environmental and tourism economy by rejecting the legislative leadership's political attack on a proposed rule that would reduce mercury pollution from coal-burning power plants. The Natural Resources Board passed unanimously the mercury rule on June 25, 2003.

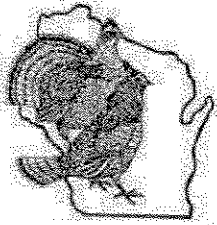
"The Natural Resources Board deserves credit for passing a rule based on sound science and policy that will help reduce mercury pollution in our lakes and fish," said Marc Looze, Mercury Chair for the Wisconsin Stewardship Network. "We ask the Natural Resources Board to stand by their very decisive vote in favor of protecting Wisconsin families from mercury pollution. The Legislature's utility-biased attack on mercury reductions should be rejected."

The reason for the Board's vote today is that the Senate and Assembly Natural Resources Committees have supported the position advanced by electric utilities and tried to block a strong mercury reduction rule. The Natural Resources Board and Legislature must act on the rule quickly in order to avoid a delay in mercury reductions of up to two years.

"Our members want mercury reductions so that someday fish will be safe to eat for everyone," said George Meyer, Executive Director of Wisconsin Wildlife Federation. "Our members don't want politics to stand in the way of mercury reductions that will help protect the health of their families."

Every lake and river in Wisconsin is on a health advisory due to widespread mercury contamination of fish. Wisconsin has the opportunity to be one of the national leaders in reducing mercury pollution from the largest source, coal-burning power plants. The proposed mercury rule would require utilities to reduce their mercury pollution 80% by 2015.

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Wisconsin Wildlife Federation

720 ST. CROIX ST., SUITE 101, PRESCOTT, WI 54021 • (715) 262-9279 • 1-800-897-4161

AFFILIATED WITH NATIONAL WILDLIFE FEDERATION

October 22, 2003

Tryg Solberg
Natural Resources Board

Re: Mercury Emission Rules

Dear Mr. Solberg:

The Wisconsin Wildlife Federation encourages the Natural Resources Board at its meeting today at Baraboo, Wisconsin to reaffirm its prior decision to adopt mercury emission regulations for utilities in Wisconsin. As the Wisconsin Wildlife Federation testified at your June meeting, this is an important health issue for our members and their families. The sooner that Wisconsin utilities start to implement the reductions called for in the regulations, the sooner there will be less mercury going into our lakes, our fish and our children.

In June of this year you did your job and you did it well. You looked at the science and the policy and you adopted a sound set of rules. Many of us in the conservation community asked for more stringent rules. You listened respectfully to all sides of the matter and you ultimately made a sound and reasoned decision.

The respective Senate and Assembly Committees returned this matter to you for more discussion. **Time is now of the essence. If this proposed set of regulations is not returned back to the Legislature by the end of this month, it may well delay the regulations for over two more years.** The Wisconsin Wildlife Federation, along with the remainder of the petitioners has been patiently waiting for over three years already and this issue has been actively studied for over five years.

In contrast to your studied and respectful review of these regulations, the Legislative review process of this rule was **biased, one-sided and extremely disrespectful.** A mother of a disabled child, nurses, doctors, fishermen and environmentalists were very aggressively questioned and at times berated by Committee members, often at the end of the day long hearing while utility representatives were given early preference, **treated with kid gloves and allowed to speak without time limits.**

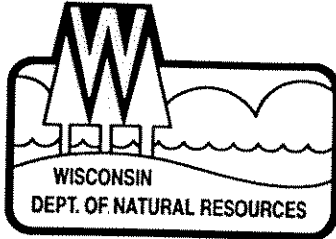
This issue is no longer one of science and policy, it has become one of hardball politics. That is not your job, **that is the job of Secretary Hassett, those in the legislature that support the rule, the many fishing and environmental groups that support the rule and ultimately Governor Doyle.** Please complete your job by returning this rule to the

MEYER DID
NOT ATTEND
THIS MEETING

Legislature as recommended by DNR staff and let the remainder of the legislative review process begin. Thank you for your time and seasoned, respectful judgment.

Very truly yours,

George E. Meyer
Executive Director



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

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NOTICE

NOTICE IS HEREBY GIVEN that the Natural Resources Board will convene at 8:30 a.m. on Wednesday, October 22, 2003, at Park Plaza, 630 West Pine Street Baraboo, Wisconsin.

NOTICE IS FURTHER GIVEN that Item 3.B.7. Mead Wildlife Area land acquisition - Marathon and Portage Counties, has been deferred from the October agenda under the Land Committee; Item 4.F. American Fisheries Society Sport Fish Restoration Outstanding Project of the Year Award, has been added to the Committee of the Whole; and Item 7.C. a donation from The Milwaukee Chapter of Great Lakes Sport Fishing for a gift of equipment with a value of over \$5,000 for improving hatchery operations for the Lake Michigan fishery, has been added to secretary's matters.

For further information, please contact Scott Hassett, Secretary of the Department of Natural Resources, at (608)266-2121

NATURAL RESOURCES BOARD

A G E N D A

For meeting at
Park Plaza Hotel, Glacier Rock
630 West Pine Street
Baraboo, Wisconsin

Tuesday, October 21, 2003
Wednesday, October 22, 2003

NOTICE IS HEREBY GIVEN that on Tuesday, October 21 2003, the Natural Resources Board will arrive at approximately 11:00 a.m. at Park Plaza Hotel, 630 West Pine Street, Baraboo, Wisconsin, and will depart at approximately 11:45 a.m. for lunch at Devils Lake State Park. At approximately 1:00 p.m. the Board will depart for a tour of Devil's Lake, Baraboo Hills, Badger Ammunition Site, and the Baraboo River. At approximately 4:00 p.m. the Board will arrive at Park Plaza Hotel, Glacier Rock, Baraboo, Wisconsin, departing at approximately 5:00 p.m. for a tour of Lower Wisconsin Riverway Area and arriving at approximately 6:30 p.m. for dinner at Green Acres, Intersections of Highways 12 and 78, Sauk City, Wisconsin. The Board will return to Park Plaza Hotel at approximately 8:00 p.m.

NOTICE IS FURTHER GIVEN that the Natural Resources Board will convene at 8:30 a.m. on Wednesday, October 22, 2003, at the Park Plaza Hotel, Glacier Rock, 630 West Pine Street, Baraboo, Wisconsin. (NOTE: ALL OCTOBER AGENDA BUSINESS WILL BE CONDUCTED BY THE FULL BOARD).

NOTICE IS FURTHER GIVEN that matters concerning natural resource issues or the Department's program responsibilities or operations specified in the Wisconsin Statutes, which are not on the agenda, may be acted upon if the Natural Resources Board determines it is urgent to act. Such matters may be raised as the result of discussions under agenda items: (4) Committee of the Whole (5) Board Members' Matters and (7) Department Secretary's Matters.

ORDER OF BUSINESS

1. Minutes to be approved.
 - A. Full Board Minutes of September, 2003.
 - B. Agenda for October 21-22, 2003.

2. Ratification of acts of the Department Secretary.
 - A. Real estate transactions.

3. Operating Committees.
 - A. Air, Waste and Water/Enforcement Committee.
 1. Minutes. There were no Committee minutes for September, 2003 since all agenda items were taken up during the Full Board Meeting.
 2. Adoption of Order DG-30-03 - revision of Chapter NR 809, Wis. Adm. Code, pertaining to arsenic in drinking water. (Don Swailes) (15 minutes)
 3. Adoption of Order DG-32-03 - revision of Chapter NR 140, Wis. Adm. Code, pertaining to groundwater quality standards for arsenic. (Michael Lemcke) (10 minutes)
 4. Adoption of Order WT-27-03 - revision of Chapters NR 104, NR 105, NR 106, and NR 210, Wis. Adm. Code, pertaining to ammonia nitrogen water quality standards. (Duane Schuettpeitz) (20 minutes)

5. Adoption of Order AM-17-03 - revision of Chapters NR 460, NR 465, and NR 484, Wis. Adm. Code, pertaining to national emission standards for hazardous air pollutants for facilities that apply surface coatings to large appliances. (Jeff Hanson) (10 minutes)
6. Authorization for hearing on revision of Chapter NR 6, Wis. Adm. Code, pertaining to snowmobile noise testing procedures. (Karl Brooks) (15 minutes)

B. Land, Management Recreation and Fisheries/Wildlife Committee.

1. Minutes. There were no Committee minutes for September, 2003 since all agenda items were taken up during the Full Board Meeting.
2. Authorization for hearing on revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial and sport fishing for yellow perch in Green Bay. (Michael Staggs) (5 minutes)
3. Authorization for hearing on revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial trap net in Lake Michigan and Green Bay. (Michael Staggs) (5 minutes)
4. Big Muskego Lake Wildlife Area land acquisition - Waukesha County. (Dick Steffes) (5 minutes)
5. Governor Knowles State Forest Area land acquisition - Polk County. (Dick Steffes) (5 minutes)
6. Jackson Marsh Wildlife Area land acquisition - Washington County. (Dick Steffes) (5 minutes)
7. Mead Wildlife Area land acquisition - Marathon and Portage Counties. (Dick Steffes) (5 minutes)
8. Statewide Habitat Area land acquisition - Oconto County. (Dick Steffes) (5 minutes)
9. Statewide Public Access land acquisition - Calumet County. (Dick Steffes) (5 minutes)
10. Lower Wolf River Bottoms Wildlife Area - Waupaca County. (Dick Steffes) (5 minutes)
11. TABLED ITEM FROM SEPTEMBER - Lower Wisconsin State Riverway land acquisition - Richland County. (Dick Steffes) (5 minutes)
12. Statewide Wildlife Habitat Area land acquisition and donation - Green Lake County. (Dick Steffes) (5 minutes)
13. Ice Age Trail Area land acquisition and donation - Polk County. (Dick Steffes) (5 minutes)
14. Gift Lands Area donation - Iron County. (Dick Steffes) (5 minutes)

4. Committee of the Whole.
 - A. Citizen Participation.
 - B. Petition for administrative rules to have a portion of the Township of Irving, Jackson County, removed from organized forest fire protection. (Richard Bucklew) (30 minutes)
 - C. INFORMATIONAL ITEM - Report update on nonmetallic mining. (Tom Portle) (10 minutes)
 - D. INFORMATIONAL ITEM - Update on Captive Wildlife. (Tom Hauge) (45 minutes)
 - E. Retirement Resolutions.
 - 1) Michael Johnson.
 - 2) Gary Krause.
 - 3) John Lacenski.
 - 4) James Miller.
5. Board Members' Matters.
6. Special Committees' Reports
None.
7. Department Secretary's Matters.
 - A. Request from the Assembly Committee on Natural Resources for Modification to Order FH-12-03 - revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial fishing outlying waters. (Adopted April 22, 2003, Item 3.D. Minutes of April 22, 2003).
 - B. DONATION - from the Estate of John P. Danielson for a gift of \$50,000 to benefit the Endangered Resources Fund.



P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

PEG LAUTENSCHLAGER
ATTORNEY GENERAL

NEWS RELEASE

For Immediate Release
October 23, 2003

For More Information Contact:
Brian Rieselman 608/266-7876

LAUTENSCHLAGER ANNOUNCES SCHEDULE FOR PUBLIC RECORDS, OPEN MEETINGS AND PUBLIC INTEGRITY SEMINARS

MADISON - Attorney General Peg Lautenschlager and Department of Justice (DOJ) officials will lead five seminars on Wisconsin public records, open meetings and public integrity. Lautenschlager will be assisted in five regions of the state by DOJ assistant attorneys general and DOJ - Public Integrity Unit investigators with expertise in these topics.

"To promote greater openness and integrity in Wisconsin government, my office will conduct five comprehensive seminars detailing the legal obligations and requirements of public employees, officials and agencies, and the rights of the public and press, under Wisconsin's open records and open meetings laws," Lautenschlager said. "I will also discuss the public integrity aspects and goals of these laws, as well as the overall investigative and enforcement initiatives of the new DOJ Public Integrity Unit."

Government officials and employees, members of the media, and the general public are welcome to attend.

On-Line Registration Email Address: registration@doj.state.wi.us

Phone Number for Registration by Phone: 608-266-7876

Cost: free

Additional rounds of seminars will be announced

Itinerary

November 11 (Tuesday) 1 p.m. - 4 p.m. Claridge Inn
70 N. Stevens St.
Rhineland, WI 54501

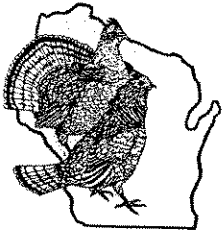
November 12 (Wednesday) 9 a.m. - Noon Fox Valley Tech.
1825 N. Bluemound Dr.
Room C190ABC
Northside - Entrance 15
Appleton

November 13 (Thursday) 9 a.m. - Noon Shorewood Hills Police Dept.
810 Shorewood Blvd.
Village Hall Board Room
Madison, WI 53705

December 9 (Tuesday) 1 p.m. - 4 p.m. Best Western Midway
1835 Rose St.
"Wisconsin" Room
La Crosse, WI 54603

December 10 (Wednesday) 1 p.m. - 4 p.m. Four Points Sheraton
4747 S. Howell Ave.
"Director's One" Room
Milwaukee, WI 53207

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Wisconsin Wildlife Federation

720 ST. CROIX ST., SUITE 101, PRESCOTT, WI 54021 • (715) 262-9279 • 1-800-897-4161

AFFILIATED WITH NATIONAL WILDLIFE FEDERATION

October 27, 2003

Senator Neal Kedzie, Chair
Senate Committee on
Environment and Natural Resources
Room 313 South
State Capitol

Representative John Gard
Speaker of the Assembly
Room 211 West
State Capitol

Representative Du Wayne Johnsrud, Chair
Assembly Natural Resources Committee
Room 323 North
State Capitol

Neal John DuWayne
Dear Senator Kedzie, Speaker Gard and Representative Johnsrud.

In a recent news article or press release, each of you has referred to myself and the Wisconsin Wildlife Federation, whose positions I represent as extremists. We hope that this does not represent a strategy on your parts as elected representatives to personally attack organizations and citizens whose positions on policy matters happen to differ from yours. ^{NOT REALLY}
_{HE ATTACKED US}

The public has not and will not believe that the fifty-five year old Wisconsin Wildlife Federation, which has a reputation of being a moderate to conservative conservation organization, is an extremist organization. Also, the public does not buy that a Secretary who was appointed and reappointed three times during the administration of Governor Tommy Thompson is an environmental extremist. ^{THEY WON'T?}
_{AGAIN, HE SPEAKS FOR "THE PUBLIC"}

Let's examine the positions that you felt were extreme. The first was the long held position of the Wisconsin Wildlife Federation that Wisconsin utilities reduce their mercury emissions by 80% by 2015 in order that we can start to reduce mercury in the fish that we catch and feed to our families. The following are a partial list of other conservation groups in this state that have presented similar or stronger positions before either the Legislature or the DNR:

Sturgeon for Tomorrow, Walleyes for Tomorrow, Muskie Club of Wisconsin, Wisconsin Council of Sports Fishing Organizations, Wisconsin Trout Unlimited, Wisconsin Bass Federation, the Isaac Walton League, Brown County Conservation Alliance, Dane County Conservation Alliance, Sheboygan County Conservation Association, Oconto County Sportsman Alliance, Lincoln County Sports Club, Green Bay Area Great Lakes Sport Fishermen, Yahara Fishing Club, Brillion Conservation Club, Coleman Sportsman's Club, Hatfield Sportsmen's Club, Hudson Rod and Gun Club, Kendall Sportmans Club, Lancaster Conservation Club, Machickanee Sportsmens Club, Mauston Bass Busters, New Lisbon Sports Club, Norwalk Rod and Gun Club, Olin-Badger Conservation Club, Otter St. Fishing Club, Pewaukee Lake Sportsman's Club, Red River Sportman's Club, Saint Croix Bass Anglers, Twin City Rod and Gun Club, Underhill Sportsmans Club, Waupaca Bass Club, Westby Rod and Gun Club and the Wolf River Bass Club. **Only a few of these organizations are a part of the eighty-two hunting, fishing and trapping groups that are affiliates of the Wisconsin Wildlife Federation.**

Also, while his proposal is set up in a manner that would not help significantly in reducing mercury pollution in Wisconsin, President Bush's 79% mercury reduction standard in the Clear Skies Initiative is only 1% different than the 80% reduction the Wisconsin Wildlife Federation is calling for and which has been referred to as being extremist.

THEN THEY SHOULD SUPPORT OUR POSITION TO
ADOPT FED RULES OVER STATE RULES

The other position of the Wisconsin Wildlife Federation that has been called extremist is our opposition to the changing of the definition of navigability as proposed in AB 506. This change would have reduced regulatory protection and public access to one-third to one-half of the 44,000 stream miles in Wisconsin. There was immediate feedback from sportsmen and women throughout the state, especially trappers, duck hunters and trout and bass anglers that this change would endanger the important habitat and public access that they rely on to carry out their cherished conservation activities. These people were not extremist but rather average citizens throughout the state.

DID NOT
MENTION THIS
IN OUR RELEASE

Two last points that were raised in your press releases that we would like to address. The Wisconsin Wildlife Federation was not a last minute attendee at last week's Natural Resources Board meeting. I was placed on the "Public Participation" segment of the Natural Resources Board meeting two weeks in advance in order to speak on both raccoon hunting in Metro Deer Units and mercury emission reductions. I was also there to monitor the Board's deliberations on the extension of the perch fishing closure, the marking of commercial trap nets off Two Rivers and the informational presentation on the status of the timber wolf in Wisconsin, all of great interest to the membership of the Wisconsin Wildlife Federation.

DID NOT RAISE
THIS ISSUE.
ISSUE RAISED WAS
THAT ENVIRDS
WERE NOTIFIED
BEFORE LEGISLATION

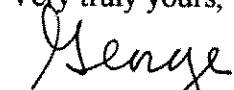
Lastly, the figures in your respective press releases relative to the cost of mercury controls for utilities in Wisconsin and the small mercury reduction in Wisconsin waters from the rules are very inaccurate representations of the affected utilities and just are not credible.

GREEN SHEET + WMC STUDY = CREDIBILITY

The Wisconsin Wildlife Federation is an old line and trusted conservation organization in this state. We have been very active in supporting many sound conservation bills before your respective bodies, many of which you have been sponsors or otherwise supported, including the Constitutional right to bear arms, the Constitutional right to hunt, fish and trap and the right to carry concealed weapons. We are very willing to continue to work with you on such sound conservation proposals but our membership also respectfully reserves the right to disagree with positions that it believes will be contrary to the long-term protection of fishing, hunting and trapping in Wisconsin.

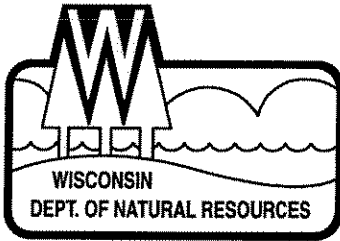
Thank you for your review of this matter.

Very truly yours,



George E. Meyer
Executive Director

Cc: Wisconsin Wildlife Federation Board of Directors
Representative Scott Gunderson
Representative Don Friske



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY 608-267-6897

October 27, 2003

The Honorable Neal Kedzie
313 S
State Capitol

The Honorable DuWayne Johnsrud
323 N
State Capitol

Dear Senator ^{Neal} Kedzie and Representative Johnsrud:

Thank you for taking the time to talk with me and Allen Shea, Administrator of the Division of Air and Waste last week on the mercury and air toxics rules.

I apologize for not briefing both of you before you read or heard about these two rules going to the Natural Resources Board. Secretary Hassett relies on me to inform the Legislature about issues and assumed that I had in this case. I did not and am sorry. I feel especially bad because we have built over time the kind of relationship that assumes, even if we disagree on an issue, that we will share our reasoning and pertinent information before decisions are made. You have both always treated me that way and I appreciate it. I did not return the courtesy in this case and understand why you were both upset and angry. It will not happen in the future.

I look forward to working with you both to find a way of advancing these two very important rules. Thank you for planning the quick meeting for this Tuesday for staff to fully brief you on the issues.

Sincerely,

Paul Heinen

Cc: Secretary Hassett
Elizabeth Kluesner
Allen Shea
Pat Henderson - Governor's Office

CHANGES RELATED TO THE NEED TO REGULATE ADDITIONAL CONTAMINANTS (Section 63)

Note: Strike through language is proposed to be deleted from Board Order AM-34-02 as adopted on April 22, 2003. Underlined language is proposed to be added to Board Order AM-34-02 as adopted on April 22, 2003.

NR 445.13 Review of hazardous air contaminant requirements. (1) PERIODIC REPORTS. (a)

~~Beginning 3 years after the effective date of this section... [revisor inserts date] and no later than every 3 years thereafter, the~~ The department, in consultation with the department of health and family services, shall prepare a periodic report for the natural resources board that reviews information related to listing, de-listing, and setting regulatory thresholds, standards and control requirements for hazardous air contaminants under this chapter.

~~(b) Beginning 6 years after the effective date of this section... [revisor inserts date] and no later than every 6 years thereafter, the department, in consultation with the department of health and family services, shall prepare a report for the natural resources board that includes~~ The report shall include all of the following:

~~1.(a)~~ A review of available information about the likely sources of emissions of and an assessment of whether the criteria set forth in sub. (2)(b) are likely to apply to the hazardous air contaminants identified under ~~par.~~ (a) this subsection.

~~2.(b)~~ Recommendations on the need for rule modifications.

~~3.(c)~~ Recommendations on the need for special studies.

(2) REVISION OF TABLE LISTS. (a) The department shall determine that a substance is a hazardous air contaminant that may be listed in Table A, B or C of s. NR 445.07 if the substance can, due to inhalation, cause an adverse health effect and it meets one or more of the following conditions:

1. The substance is classified as a known carcinogen or reasonably anticipated to be carcinogenic by both the International Agency for Research on Cancer and the National Toxicology Program.

2. The substance has a threshold limit value established by the American Conference of Governmental Industrial Hygienists.

3. The substance has a reference concentration established by the United States environmental protection agency with an uncertainty factor of 300 or less.

(b) The department shall list in Table A, B or C of s. NR 445.07 a substance determined under par. (a) to be a hazardous air contaminant if it also determines that none of the following apply to the contaminant:

1. The only critical inhalation effect listed for the substance by the American Conference of Governmental Industrial Hygienists is asphyxiation.

2. The substance possesses an explosive nature requiring safety procedures that preclude ambient concentrations that would present toxicity concerns.

3. The substance has a threshold limit value of greater than or equal to 100 parts per million.

4. The substance has a threshold limit value of greater than or equal to 10 milligrams per cubic meter.

(c) The department may consider any of the following in determining whether to list a hazardous air contaminant in Table A, B or C of s. NR 445.07:

1. Other regulations that may provide adequate protection for public health or welfare.

2. That additional information is necessary to fully assess the need to list the hazardous air contaminant in Table A, B or C.

(d) The department shall consider all of the following in determining whether to list a hazardous air contaminant in Table A, B or C of s. NR 445.07:

1. An evaluation of sources in Wisconsin that release, or are likely to release, the contaminant.

2. An evaluation of the expected population exposure to the contaminant and the related risks.

3. An evaluation of alternative control strategies, including emission limitations, that includes consideration of costs.

(3) REEVALUATION OF LISTING DECISION. The owner or operator of an affected source or other interested party may submit a written request to, and the department may, reevaluate a determination to list or not to list a substance as a hazardous air contaminant in this chapter. The request shall provide new or additional information for the department's consideration. In conducting a reevaluation, the department shall consider the criteria set forth in sub. (2)(b) and (c) and other information that it deems relevant.

NR 445.14 Hazardous air contaminant studies. (1) The department may conduct studies of individual substances or categories or sources of substances if it determines that unique complexities may warrant alternative approaches to those listed in this chapter, or if the department otherwise needs additional information to determine whether to list the contaminant in Table A, B or C of s. NR 445.07.

Note: Unique complexities may be the result of the nature of the emissions, the sources of emissions, the management of emissions or other factors. The studies will not include a re-evaluation of the classification of the substance as reported by the American Conference of Government Industrial Hygienists, the United States environmental protection agency, the International Agency for Research on Cancer, or the National Toxicology Program.

(2) The department staff shall, in consultation with affected industry, public health officials and other interested parties, undertake 2 separate studies of the emissions of amorphous and crystalline silica and wood dust. The studies shall evaluate the sources and amounts of emissions and alternative strategies for minimizing public health risks. The department staff shall report progress on the studies to the natural resources board by 24 calendar months after the effective date of this section... [revisor inserts date].

(3) The department shall evaluate the listing of substances added to this chapter on the effective date of this section... [revisor insert date] using the criteria set forth in s. ^{NR}445.13(2)(d) prior to listing additional substances in Tables A, B or C of s. NR 445.07.

CHANGE RELATED TO EMISSIONS FROM AGRICULTURAL FACILITIES AND LIVESTOCK OPERATIONS (Section 36a)
Note: Underlined language is proposed to be added to Board Order AM-34-02 as adopted on April 22, 2003.

NR 445.01(2) Note: The department does not intend the emission limitations included in this chapter to be applied to emissions resulting from the handling, treatment or storage of animal waste byproducts or other agricultural waste from agricultural facilities and livestock operations. The department believes that using performance standards are the preferred approach in these types of situations.

DIESEL GENERATORS

1. ~~Federal regulations for STATIONARY sources do not regulate diesel particulate emissions.~~
(Diesel is not one of the 188 hazardous air pollutants listed in the Clean Air Act. Diesel was not a suspected carcinogen in 1990.)
2. Federal regulations for MOBILE sources do regulate diesel particulate emissions.
3. NR 445 only applies to STATIONARY sources.
4. NR 445 requires diesel generators that are **in one location for 12 months** or more and that combust **10,000 gallons** or more to meet NR 445 diesel emission standards. (Equivalent to 100 hp generator running one shift per year)

- Applies to New engines not existing

- Essential services exempt (ie. hospitals,

asures as are necessary and practicable in the interim to minimize emissions. Such schedule shall be treated as a standard of performance for purposes of subsection (e) of this and section 113.

[2112]

Sec. 112. HAZARDOUS AIR POLLUTANTS.

(a) DEFINITIONS.—For purposes of this section, except subsection (r)—

(1) MAJOR SOURCE.—The term "major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The Administrator may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source than that specified in the previous sentence, on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

(2) AREA SOURCE.—The term "area source" means any stationary source of hazardous air pollutants that is not a major source. For purposes of this section, the term "area source" shall not include motor vehicles or nonroad vehicles subject to regulation under title II.

(3) STATIONARY SOURCE.—The term "stationary source" shall have the same meaning as such term has under section 111(a).

(4) NEW SOURCE.—The term "new source" means a stationary source the construction or reconstruction of which is commenced after the Administrator first proposes regulations under this section establishing an emission standard applicable to such source.

(5) MODIFICATION.—The term "modification" means any physical change in, or change in the method of operation of, a major source which increases the actual emissions of any hazardous air pollutant emitted by such source by more than a de minimis amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a de minimis amount.

(6) HAZARDOUS AIR POLLUTANT.—The term "hazardous air pollutant" means any air pollutant listed pursuant to subsection (b).

(7) ADVERSE ENVIRONMENTAL EFFECT.—The term "adverse environmental effect" means any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.

(8) ELECTRIC UTILITY STEAM GENERATING UNIT.—The term "electric utility steam generating unit" means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies

more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

(9) OWNER OR OPERATOR.—The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

(10) EXISTING SOURCE.—The term "existing source" means any stationary source other than a new source.

(11) CARCINOGENIC EFFECT.—Unless revised, the term "carcinogenic effect" shall have the meaning provided by the Administrator under Guidelines for Carcinogen Risk Assessment as of the date of enactment. Any revisions in the existing Guidelines shall be subject to notice and opportunity for comment.

(b) LIST OF POLLUTANTS.—

(1) INITIAL LIST.—The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:

CAS number	Chemical name	CAS number	Chemical name
75070	Acetaldehyde	463581	Carbonyl sulfide
60355	Acetamide	120809	Catechol
75058	Acetonitrile	133904	Chloramben
98862	Acetophenone	57749	Chlordane
53963	2-Acetylaminofluorene	7782505	Chlorine
107028	Acrotoxin	79118	Chloroacetic acid
79061	Acrylamide	532274	2-Chloroacetophenone
79107	Acrylic acid	108907	Chlorobenzene
107131	Acrylonitrile	510156	Chlorobenzilate
107051	Allyl chloride	67663	Chloroform
92671	4-Aminobiphenyl	107302	Chloromethyl methyl ether
62533	Aniline	126998	Chloroprene
90040	o-Anisidine	1319773	Cresols/Cresylic acid (isomers and mixture)
1332214	Asbestos	95487	o-Cresol
71432	Benzene (including benzene from gasoline)	108394	m-Cresol
92875	Benzidine	106445	p-Cresol
98077	Benzotrifluoride	98828	Cumene
100447	Benzyl chloride	94757	2,4-D, salts and esters
92524	Biphenyl	3547044	DDE
117817	Bis(2-ethylhexyl)phthalate (DEHP)	334883	Diazomethane
542881	Bis(chloromethyl)ether	132649	Dibenzofurans
75252	Bromoform	96128	1,2-Dibromo-3-chloropropane
106990	1,3-Butadiene	84742	Dibutylphthalate
156627	Calcium cyanamide	106467	1,4-Dichlorobenzene(p)
105602	Caprolactam	91941	3,3-Dichlorobenzidine
133062	Captan	111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)
63252	Carbaryl	542756	1,3-Dichloropropene
75150	Carbon disulfide	62737	Dichlorvos
56235	Carbon tetrachloride		

Law Text

129

CAS number	Chemical name	CAS number	Chemical name
111422	Diethanolamine	74839	Methyl bromide (Bromomethane)
121697	N,N-Diethyl aniline (N,N-Dimethylaniline)	74873	Methyl chloride (Chloromethane)
64675	Diethyl sulfate	71556	Methyl chloroform (1,1,1-Trichloroethane)
119904	3,3-Dimethoxybenzidine	78933	Methyl ethyl ketone (2-Butanone)
60117	Dimethyl amhoazobenzene	60344	Methyl hydrazine
119937	3,3-Dimethyl benzidine	74884	Methyl iodide (Iodomethane)
79447	Dimethyl carbamoyl chloride	108101	Methyl isobutyl ketone (Hexone)
68122	Dimethyl formamide	624839	Methyl isocyanate
57147	1,1-Dimethyl hydrazine	80626	Methyl methacrylate
131113	Dimethyl phthalate	1634044	Methyl tert butyl ether
77781	Dimethyl sulfate	101144	4,4-Methylene bis(2-chloroaniline)
534521	4,6-Dinitro-o-cresol, and salts	75092	Methylene chloride (Dichloromethane)
51285	2,4-Dinitrophenol	101688	Methylene diphenyl diisocyanate (MDI)
121142	2,4-Dinitrotoluene	101779	4,4-Methylenedianiline
123911	1,4-Dioxane (1,4-Diethyleneoxide)	91203	Naphthalene
122667	1,2-Diphenylhydrazine	98953	Nitrobenzene
106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	92933	4-Nitrophenyl
106887	1,2-Epoxybutane	100027	4-Nitrophenol
140885	Ethyl acrylate	79469	2-Nitropropane
100414	Ethyl benzene	684935	N-Nitroso-N-methylurea
51796	Ethyl carbamate (Urethane)	62759	N-Nitrosodimethylamine
75003	Ethyl chloride (Chloroethane)	59892	N-Nitrosomorpholine
106934	Ethylene dibromide (Dibromoethane)	56382	Parathion
107062	Ethylene dichloride (1,2-Dichloroethane)	82688	Pentachloronitrobenzene (Pentachlorobenzene)
107211	Ethylene glycol	87865	Pentachlorophenol
151564	Ethylene imine (Aziridine)	108952	Phenol
75218	Ethylene oxide	106503	p-Phenylenediamine
96457	Ethylene thiourea	75445	Phosgene
75343	Ethylidene dichloride (1,1-Dichloroethane)	7803512	Phosphorus
50000	Formaldehyde	7723140	Phosphorus
76448	Heptachlor	85449	Phthalic anhydride
118741	Hexachlorobenzene	1336363	Polychlorinated biphenyls (Aroclors)
87683	Hexachlorobutadiene	1120714	1,3-Propane sultone
77474	Hexachlorocyclopentadiene	57578	beta-Propiolactone
67721	Hexachloroethane	123386	Propionaldehyde
822060	Hexamethylene-1,6-diisocyanate	114261	Propoxur (Baygon)
680319	Hexamethylphosphoramide	78875	Propylene dichloride (1,2-Dichloropropane)
110543	Hexane	75569	Propylene oxide
302012	Hydrazine	75558	1,2-Propylenimine (2-Methyl aziridine)
7647010	Hydrochloric acid	91225	Quinoline
7664393	Hydrogen fluoride (Hydrofluoric acid)	106514	Quinone
7783064	Hydrogen sulfide	100425	Styrene
123319	Hydroquinone	96093	Styrene oxide
78591	Isophorone	1746016	2, 3, 7, 8-Tetrachlorodibenzo-p-dioxin
58899	Lindane (all isomers)	79345	1, 1, 2, 2-Tetrachloroethane
108316	Maleic anhydride		
67561	Methanol		
72435	Methoxychlor		

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CAS number	Chemical name	CAS number	Chemical name
127184	Tetrachloroethylene (Perchloroethylene)	95476	o-Xylenes
7550450	Titanium tetrachloride	108383	m-Xylenes
108883	Toluene	106423	p-Xylenes
95807	2,4-Toluene diamine	0	Antimony Compounds
584849	2,4-Toluene diisocyanate	0	Arsenic Compounds (inorganic including arsine)
95534	o-Toluidine	0	Beryllium Compounds
8001352	Toxaphene (chlorinated camphene)	0	Cadmium Compounds
120821	1,2,4-Trichlorobenzene	0	Chromium Compounds
79005	1,1,2-Trichloroethane	0	Cobalt Compounds
79016	Trichloroethylene	0	Coke Oven Emissions
95954	2,4,5-Trichlorophenol	0	Cyanide Compounds ¹
88062	2,4,6-Trichlorophenol	0	Glycol ethers ²
121448	Triethylamine	0	Lead Compounds
1582098	Trifluralin	0	Manganese Compounds
540841	2, 2, 4-Trimethylpentane	0	Mercury Compounds
108054	Vinyl acetate	0	Fine mineral fibers ³
593602	Vinyl bromide	0	Nickel Compounds
75014	Vinyl chloride	0	Polycyclic Organic Matter ⁴
75354	Vinylidene chloride (1,1-Dichloroethylene)	0	Radionuclides (including radon) ⁵
1330207	Xylenes (isomers and mixture)	0	Selenium Compounds

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

¹ X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or Ca(CN)₂

² Includes mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol R(OCH₂CH₂)_nOR' where

n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R(OCH₂CH₂)_nOH. Polymers are excluded from the glycol category.

³ Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

⁴ Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100° C.

⁵ A type of atom which spontaneously undergoes radioactive decay.

(2) REVISION OF THE LIST.—The Administrator shall periodically review the list established by this subsection and publish the results thereof and, where appropriate, revise such list by rule, adding pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects (including, but not limited to, substances which are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, neurotoxic, which cause reproductive dysfunction, or which are acutely or chronically toxic) or adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise, but not including releases subject to regulation under subsection (r) as a result of emissions to the air. No air pollutant which is listed under section 108(a) may be

Clean Air Act

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² Includes mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol R(OCH₂CH₂)_nOR' where

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R = alkyl or aryl groups

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³ Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

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section 172(b)(6) (relating to establishment of a permit program) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990) or 172(a)(1) (to the extent such requirements relate to provision for attainment of the primary national ambient air quality standard for sulfur oxides by December 31, 1982) as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, no major stationary source of the relevant air pollutant or pollutants shall be constructed or modified in such area until the Administrator finds that the plan for such area meets the applicable requirements of section 172(c)(5) (relating to permit programs) or subpart 5 of part D (relating to attainment of the primary national ambient air quality standard for sulfur dioxide), respectively.

(o) INDIAN TRIBES.—If an Indian tribe submits an implementation plan to the Administrator pursuant to section 301(d), the plan shall be reviewed in accordance with the provisions for review set forth in this section for State plans, except as otherwise provided by regulation promulgated pursuant to section 301(d)(2). When such plan becomes effective in accordance with the regulations promulgated under section 301(d), the plan shall become applicable to all areas (except as expressly provided otherwise in the plan) located within the exterior boundaries of the reservation, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

(p) REPORTS.—Any state shall submit, according to such schedule as the Administrator may prescribe, such reports as the Administrator may require relating to emission reductions, vehicle miles traveled, congestion levels, and any other information the Administrator may deem necessary to assess the development effectiveness, need for revision, or implementation of any plan or plan revision required under this Act.

[¶ 2111]

Sec. 111. STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

(a) For purposes of this section:

(1) The term "standard of performance" means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.

(2) The term "new source" means any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance under this section which will be applicable to such source.

(3) The term "stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant. Nothing in Title II of this Act relating to nonroad engines shall be construed to apply to stationary internal combustion engines.

and the development of curricula, training courses, and materials to maximize the effectiveness of inspection and maintenance programs as they relate to promoting effective control of vehicle emissions at high-altitude elevations. Preference shall be given to existing vehicle emissions testing and research centers that have established reputations for vehicle emissions research and development and training, and that possess in-house Federal Test Procedure capacity.

¶ 2216

Sec. 216. DEFINITIONS FOR PART A

As used in this part—

(1) The term "manufacturer" as used in sections 202, 203, 206, 207, and 208 means any person engaged in the manufacturing or assembling of new motor vehicles, new motor vehicle engines, new nonroad vehicles or new nonroad engines, or importing such vehicles or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles, new motor vehicle engines, new nonroad vehicles or new nonroad engines, but shall not include any dealer with respect to new motor vehicles, new motor vehicle engines, new nonroad vehicles or new nonroad engines received by him in commerce.

(2) The term "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(3) Except with respect to vehicles or engines imported or offered for importation, the term "new motor vehicle" means a motor vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser; and the term "new motor vehicle engine" means an engine in a new motor vehicle or a motor vehicle engine the equitable or legal title to which has never been transferred to the ultimate purchaser; and with respect to imported vehicles or engines, such terms mean a motor vehicle and engine, respectively manufactured after the effective date of a regulation issued under section 202 which is applicable to such vehicle or engine (or which would be applicable to such vehicle or engine had it been manufactured for importation into the United States).

(4) The term "dealer" means any person who is engaged in the sale or the distribution of new motor vehicles or new motor vehicle engines to the ultimate purchaser.

(5) The term "ultimate purchaser" means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases such new motor vehicle or new engine for purposes other than resale.

(6) The term "commerce" means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly within the District of Columbia.

¶ 2216 Sec. 216

(7) VEHICLE CURB WEIGHT, GROSS VEHICLE WEIGHT RATING, LIGHT-DUTY TRUCK, LIGHT-DUTY VEHICLE, AND LOADED VEHICLE WEIGHT.—The terms "vehicle curb weight", "gross vehicle weight rating" (GVWR), "light-duty truck" (LDT), light-duty vehicle, and "loaded vehicle weight" (LVW) have the meaning provided in regulations promulgated by the Administrator and in effect as of the enactment of the Clean Air Act Amendments of 1990. The abbreviations in parentheses corresponding to any term referred to in this paragraph shall have the same meaning as the corresponding term.

(8) TEST WEIGHT.—The term "test weight" and the abbreviation "tw" mean the vehicle curb weight added to the gross vehicle weight rating (GVWR) and divided by 2.

(9) MOTOR VEHICLE OR ENGINE PART MANUFACTURER.—The term "motor vehicle or engine part manufacturer" as used in sections 207 and 208 means any person engaged in the manufacturing, assembling or rebuilding of any device, system, part, component or element of design which is installed in or on motor vehicles or motor vehicle engines.

(10) NONROAD ENGINE.—The term "nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 111 or section 202. — (10)(a)

(11) NONROAD VEHICLE.—The term "nonroad vehicle" means a vehicle that is powered by a nonroad engine and that is not a motor vehicle or a vehicle used solely for competition.

¶ 2217

Sec. 217. MOTOR VEHICLE COMPLIANCE PROGRAM FEES.

(a) FEE COLLECTION.—Consistent with section 9701 of title 31, United States Code, the Administrator may promulgate (and from time to time revise) regulations establishing fees to recover all reasonable costs to the Administrator associated with—

- (1) new vehicle or engine certification under section 206(a) or part C,
- (2) new vehicle or engine compliance monitoring and testing under section 206(b) or part C, and
- (3) in-use vehicle or engine compliance monitoring and testing under section 207(c) or part C.

The Administrator may establish for all foreign and domestic manufacturers a fee schedule based on such factors as the Administrator finds appropriate and equitable and nondiscriminatory, including the number of vehicles or engines produced under a certificate of conformity. In the case of heavy-duty engine and vehicle manufacturers, such fees shall not exceed a reasonable amount to recover an appropriate portion of such reasonable costs.

(b) SPECIAL TREASURY FUND.—Any fees collected under this section shall be deposited in a special fund in the United States Treasury for licensing and other services which thereafter shall be available for appropriation, to remain

Sec. 217 ¶ 2217

Air Contar	CAS Number ¹	Reporting Level (lbs/yr)
Yttrium m...	7440-65-5 ²	235
Zeolites (Erionite)	66733-21-9	1.22
Zirconium and compounds, as Zr	7440-67-7 ²	1,176

¹Chemical Abstract Service or CAS number refers to the unique chemical abstracts service registry number assigned to a specific chemical, isomer or mixture of chemicals or isomers and recorded in the CAS chemical registry system by the Chemical Abstracts Service, PO Box 3012, Columbus OH 43210, phone 1-614-447-3600.

²Indicates contaminants for which multiple CAS numbers may apply. For contaminants listed as a metal and its compounds, the given CAS number refers to the metal.

³Indicates contaminants for which a fee will be assessed under s. NR 410.04.

⁴Indicates compounds included in the glycol ethers group. These are included in the glycol ethers emission total reported along with the many other such compounds not listed individually by name.

⁵Glycol ethers include mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol, R-(OCH₂CH₂)_n-OR' where:

n = 1, 2 or 3

R = alkyl C7 or less or

R = phenyl or alkyl substituted phenyl

R' = H or alkyl C7 or less or OR' consists of carboxylic acid ester, sulfate, phosphate, nitrate or sulfonate.

⁶Organic Compounds that are not volatile organic compounds because of negligible photochemical reactivity are specified in s. NR 400.02 (162).

SECTION 31. NR 439.03(4)(a)1. is amended to read:

NR 439.03(4)(a)1. Hazardous air spills which that require immediate notice to the department under s. NR 445.08 s. NR 445.16.

SECTION 32. NR 445 Subchapter I (title) to precede s. NR 445.01 is created to read:

SUBCHAPTER I - GENERAL PROVISIONS

SECTION 33. NR 445.01(1)(a) is amended to read:

NR 445.01(1)(a) This chapter applies to all stationary air contaminant sources which may emit hazardous pollutants contaminants and to their owners and operators. ~~The emission limitations and control requirements of this chapter do not apply to a source of a hazardous air contaminant regulated under chs. NR 446 to 449 for the specific hazardous air contaminants regulated under those chapters or to a source which must meet a national emission standard for a hazardous air pollutant promulgated under section 112 of the act (42 USC 7412) for the specific air pollutant regulated under that standard.~~

mit under s. 285.60 for a major source located in an attainment area, whichever occurs first, less any contribution from stationary sources identified in 42 USC 7479 (4).

(12) "Best available control technology" means an emission limitation for an air contaminant based on the maximum degree of reduction achievable as specified by the department on an individual case-by-case basis taking into account energy, economic and environmental impacts and other costs related to the source.

(13) "Department" means the department of natural resources.

(15) "Emission" means a release of air contaminants into the atmosphere.

(16) "Emission limitation" or "emission standard" means a requirement which limits the quantity, rate or concentration of emissions of air contaminants on a continuous basis. An emission limitation or emission standard includes a requirement relating to the operation or maintenance of a source to assure continuous emission reduction.

(17) "Emission reduction option" means:

(a) An offsetting of greater emissions from a stationary source against lower emissions from the same or another stationary source.

(b) A reduction in emissions from a stationary source which is reserved as a credit against future emissions from the same or another stationary source.

(c) Other arrangements for emission reduction, trade-off, credit or offset permitted by rule by the department.

(18) "Existing source" means a stationary source that is not a new source or a modified source.

(19) "Federal clean air act" means the federal clean air act, 42 USC 7401 to 7671q, and regulations issued by the federal environmental protection agency under that act.

(20) "Growth accommodation" means the amount of volatile organic compounds specified in s. 285.39 (1) (a).

(21) "Hazardous substance" means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department.

(23) "Lowest achievable emission rate" means the rate of emission which reflects the more stringent of the following:

(a) The most stringent emission limitation which is contained in the air pollution regulatory program of any state for this class or category of source, unless an applicant for a permit demonstrates that these limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by the class or category of source.

(24) "Major source" means a stationary source that is capable of emitting an air contaminant in an amount in excess of an amount specified by the department by rule under s. 285.11 (16).

(25) "Minor source" means a stationary source that is not a major source.

(26) "Modification" means any physical change in, or change in the method of operation of, a stationary source that increases the amount of emissions of an air contaminant or that results in the emission of an air contaminant not previously emitted, subject to rules promulgated under s. 285.11 (17).

(27) "Modified source" means a stationary source on which modification commences after November 15, 1992.

(28) "Municipality" means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

(29) "New source" means a stationary source on which construction, reconstruction or replacement commences after November 15, 1992.

(30) "Nonattainment area" means an area identified by the department in a document prepared under s. 285.23 (2) where the concentration in the atmosphere of an air contaminant exceeds an ambient air quality standard.

(33) "Person" means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(34) "Reasonably available control technology" means that control technology which provides the lowest emission rate that a particular source is capable of achieving by the application of control technology that is reasonably available considering technological and economic feasibility.

(35) "Refuse" means all matters produced from industrial or community life, subject to decomposition, not defined as sewage.

(36) "Regulated pollutant" means any of the following, except for carbon monoxide:

(a) A volatile organic compound.

(b) An oxide of nitrogen.

(c) A pollutant regulated under 42 USC 7411 or 7412.

(d) A pollutant for which a national primary ambient air quality standard has been promulgated under 42 USC 7409.

(37) "Replenishment implementation period" means the period between August 1, 1987, and December 31 of the year by which the department requires full compliance with rules required to be promulgated under s. 285.39 (3).

(38) "Secretary" means the secretary of natural resources.

(39) "Sewage" means the water-carried wastes created in and to be conducted away from residences, industrial establishments, and public buildings as defined in s. 101.01 (12), with such surface water or groundwater as may be present.

(40) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31 (1).

(41) "Stationary source" means any facility, building, structure or installation that directly or indirectly emits or may emit an air contaminant only from a fixed location. A stationary source includes an air contaminant source that is capable of being transported to a different location. A stationary source may consist of one or more pieces of process equipment, each of which is capable of emitting an air contaminant. A stationary source does not include a motor vehicle or equipment which is capable of emitting an air contaminant while moving.

(42) "Volatile organic compound" means an organic compound which participates in an atmospheric photochemical reaction, as determined by the department by rule.

(43) "Volatile organic compound accommodation area" means Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington and Waukesha counties and any other county specified by the department by rule in response to a finding by the federal environmental protection agency that the county is to be included in the volatile organic compound accommodation area.

History: 1971 c. 125, 130, 211; 1977 c. 377; 1979 c. 34, 221; 1987 a. 27, 399; 1989 a. 31; 1991 a. 269, 302; 1995 a. 227 ss. 438 to 453, 989; Stats. 1995 s. 285.01; 1997 a. 35; 1999 a. 9.

The social and economic roots of judge-made air pollution policy in Wisconsin. Laits, 58 MLR 465.

Cleaning the Air: Wisconsin's Air Quality Laws. Burke. Wis. Law. Aug. 1992.

NR 445.09 (3) Re: Diesel Generators

(3) CONTROL REQUIREMENTS. (a) The owner or operator of a CI engine that stays, or that is intended to stay, in a single location for any 12 consecutive month period, and that combusts or intends to combust 10,000 gallons or more of fuel oil during that period of time, shall do one of the following as appropriate:

1. For an engine manufactured or last rebuilt prior to January 1, 1995, install, operate and maintain a control device that achieves at least 85% overall control of particulate matter emissions or that is certified to achieve an overall level of particulate matter emission control that is great enough to ensure that one of the following emission rates is achieved:

- a. 0.10 grams per brake horsepower-hour for engines rated from 100 to 750 horsepower.
- b. 0.03 grams per brake horsepower-hour engines rated at greater than 750 horsepower.

2. For an engine manufactured or last rebuilt on or after January 1, 1995 and prior to July 1, 2006, install, operate and maintain a certified control device that has an overall level of control that is great enough to ensure that the applicable emission rate in subd. 1.a. or b. is achieved.

3. For an engine manufactured or last rebuilt on or after July 1, 2006 and prior to July 1, 2010, either control particulate matter emissions to a level that is the best available control technology or install, operate and maintain a certified control device that has an overall level of particulate matter emission control that is great enough to ensure that an emission rate of 0.03 grams per brake horsepower-hour is achieved.

4. For an engine manufactured or last rebuilt on or after July 1, 2010, either control particulate matter emissions to a level that is the best available control technology or install, operate and maintain a certified control device that has an overall level of particulate matter emission control that is great enough to ensure that an emission rate of 0.01 grams per brake horsepower-hour is achieved.

Note: Upon request the department will provide information on the availability of control technology to meet the requirements in this paragraph. Contact the Environmental Studies Section of the Bureau of Air Management, 608-266-7718, for additional information.

(b) The owner or operator of a facility that conducts any testing involving the operation of an engine or group of engines subject to this section where the engine or engines combust, in the aggregate, 40,000 gallons or more of fuel oil in any 12 consecutive month period shall control particulate matter emissions from the facility from the engine or engines subject to this section to a level that is the best available control technology.

(4) COMPLIANCE DEMONSTRATION, NOTIFICATION REQUIREMENTS AND SCHEDULE. (a) An owner or operator complying with an emission rate requirement in sub. (3)(a)1. or 2. shall submit all of the following information in writing to the department no later than the last day of the thirty-sixth calendar month after the effective date of this

FLOUR DUST

1. Only applies to bakeries if actual annual emissions of particulate matter are greater than 5 tons per year.
2. All facilities that emit 5 tons per year or more of particulate matter must report emissions to the emissions inventory. (existing NR 438)
3. No bakery reports emissions of PM to the inventory above 1 ton per year.

- Most WA businesses are "incidental" emitters
- DOES NOT APPLY TO GRAIN DUST.
- GRAIN OPERATIONS O.K.

certify the source's compliance status. An owner or operator of a source that has requirements at least as stringent as the requirements in sub. (2) or (3) in a permit or order may so state in his or her certification.

Note: This is a one-time certification. Certification forms may be obtained from, and submitted to:

Wisconsin Department of Natural Resources

Bureau of Air Management

PO Box 7921

Madison WI 53707-7921

Attention: NR 445 Certification form for handling and storage of coal.

*Only need to look
@ use if they use
chemicals of
concern
81 total
- 3
= 78*

Small Companies

NR 445.11 Compliance requirements for sources of incidental emissions. (1) The owner or operator of

a facility described by a standard industrial classification code listed in Table D, as described in the Standard Industrial Classification Manual, 1987, incorporated by reference in s. NR 484.05(1), or that has actual annual emissions of less than 5 tons of particulate matter and less than 3 tons of volatile organic compounds, shall meet the requirements of subs. (2) to (4) if any of the following apply:

(a) The facility includes operation of one or more of the following processes:

1. A compression ignition internal combustion engine with rated brake power greater than 100 horsepower used as a power source.
2. Any expected source of chlorinated dioxins, furans or PCBs.
3. Sludge incineration.
4. Chrome electroplating.
5. Gasoline dispensing.
6. Manufacture or treatment of a pesticide, rodenticide, insecticide, herbicide or a fungicide resulting in an emission of a hazardous air contaminant listed in Table B of s. NR 445.07.
7. Manufacture or treatment of a pharmaceutical resulting in an emission of a hazardous air contaminant listed in Table C of s. NR 445.07.
8. Solid, hazardous or medical waste incineration.

(b) The presence of one or more of the substances in Table E at the facility is indicated by one of the following:

1. The substance is listed on an approved material safety data sheet or is otherwise brought into the facility.

Flour DUST NOT ON TABLE E

Table E
Substances Of Concern for Sources of Incidental Emissions of Hazardous Air Contaminants

Substance	CAS Number
Acetaldehyde	75-07-0
Acrolein	107-02-8
Acrylamide	79-06-1
Acrylic acid	79-10-7
Acrylonitrile	107-13-1
Ammonia	7664-41-7
Arsenic, elemental and inorganic compounds, as As	7440-38-2
Arsine	7784-42-1
Bis(chloromethyl) ether (BCME) and technical grade	542-88-1
Benzene	71-43-2
Benzo(a)pyrene	50-32-8
Beryllium and beryllium compounds, as Be	7440-41-7
Bromine	7726-95-6
Bromine pentafluoride	7789-30-2
1,3-Butadiene	106-99-0
Cadmium and cadmium compounds, as Cd	7440-43-9
Carbon tetrachloride	56-23-5
Chlorine	7782-50-5
Chlorine dioxide	10049-04-4
Chlorine trifluoride	7790-91-2
Chloroform	67-66-3
Chloromethyl methyl ether (CMME)	107-30-2
Chromium (VI): Chromic acid mists and dissolved Cr (VI) aerosols, as Cr	7440-47-3
Chromium (VI): compounds and particulates	7440-47-3
Cobalt, elemental, and inorganic compounds, as Co	7440-48-4
Diborane	19287-45-7
1,3-Dichloropropene	542-75-6
Diglycidyl ether (DGE)	2238-07-5
1,2-Dibromoethane (Ethylene dibromide; EDB)	106-93-4
1,2-Dichloroethane (Ethylene dichloride; EDC)	107-06-2
Ethylene oxide	75-21-8
Fluorine	7782-41-4
Formaldehyde	50-00-0
Hexachlorobenzene (HCB)	118-74-1
Hexamethylene-1,6-diisocyanate (HDI)	822-06-0
Hydrazine and hydrazine sulfate	302-01-2
Hydrogen chloride (Hydrochloric acid; Muriatic acid)	7647-01-0
Hydrogen bromide	10035-10-6
Hydrogen cyanide	74-90-8
Hydrogen fluoride (Hydrofluoric acid)	7664-39-3
Hydrogen peroxide	7722-84-1
Hydrogen sulfide	7783-06-4
Indium	7440-74-6
Iodine	7553-56-2
Isophorone diisocyanate	4098-71-9
Lead Acetate, as Pb	301-04-2
Lead Phosphate, as Pb	7446-27-7
Maleic anhydride	108-31-6
Manganese, elemental and inorganic compounds, as Mn	7439-96-5

Substance	CAS Number
Mercury, as Hg, alkyl compounds	7439-97-6
Mercury, as Hg, aryl compounds	7439-97-6
Mercury, as Hg, inorganic forms including metallic mercury	7439-97-6
Methyl hydrazine	60-34-4
Methyl isocyanate	624-83-9
Methylene bisphenyl isocyanate (Methylene diphenyl isocyanate; MDI)	101-68-8
Methylene chloride (Dichloromethane)	75-09-2
Nickel and compounds, as Ni	7440-02-0
Nitric acid	7697-37-2
Octachloronaphthalene	2234-13-1
Oxalic acid	144-62-7
Perchloroethylene (Tetrachloroethylene)	127-18-4
Pentachloronaphthalene	1321-64-8
Pentachlorophenol (PCP)	87-86-5
Phenylenediamine (mixtures and isomers)	106-50-3
Phosphine	7803-51-2
Phosphoric acid	7664-38-2
Phosphorus (yellow)	7723-14-0
Phosphorus pentachloride	10026-13-8
Platinum, soluble salts, as Pt	7440-06-4
Propylene dichloride (1,2-Dichloropropane)	78-87-5
Rhodium, soluble compounds, as Rh	7440-16-6
Selenium and compounds, as Se	7782-49-2
Sulfuric acid	7664-93-9
Tellurium and compounds, except hydrogen telluride, as Te	13494-80-9
Tetrafluoroethylene	116-14-3
Thallium, elemental and soluble compounds, as Tl	7440-28-0
Tin organic compounds, as Sn	7440-31-5
2,4-/2,6-Toluene diisocyanate (mixtures and isomers) (TDI)	584-84-9
Trichloroethylene (Trichloroethene)	79-01-6
Trimellitic anhydride	552-30-7
Triorthocresyl phosphate	78-30-8
Tungsten, as W, soluble compounds	7440-33-7
Vinyl chloride	75-01-4
n-Xylene-alpha,alpha'-diamine	1477-55-0

NR 445.12 Variances. (1) CRITERIA FOR APPROVAL. The owner or operator of a source subject to this chapter may apply for and the department may approve a variance from any of the provisions identified in pars. (a) and (b) if the applicant demonstrates to the satisfaction of the department that applicable provisions are met as follows:

(a) An applicant for a variance from the LAER control requirements in s. NR 445.07(1)(c), (2), (3) or (4) shall demonstrate all of the following to the satisfaction of the department:

1. Compliance with the LAER control requirement for which the variance has been requested would be

REMOVING 41 SUBSTANCES FROM NR 445

When reviewing
THE 144 TOXINS

1. These were substances that were identified by UW-Extension Solid and Hazardous Waste Education Center (SHWEC) and Kestrel Management Consultants (hired by WMC) as less likely to be emitted in Wisconsin.
2. SHWEC searched a national database of 250,000 Material Safety Data Sheets and grouped the new substances into 3 categories based on the frequency of occurrence in products produced by and used in manufacturing.
3. Kestrel Management grouped the new substances into use categories that included use by a specific industry or in a specific process (such as pharmaceuticals) or having multiple uses by industry.
4. The 41 substances proposed for "not listing in NR 445" are in the "less likely to be found in Wisconsin" and "special use" categories.

3 STEP REVIEW

1. Highly Likely
 2. Moderate
 3. Less

Both SHWEC & KESTREL USED TO ARRIVE @ THIS. THE "RISK MATRIX"

"DELISTED" → *less likely to be emitted or not emitted @ levels of concern

144
 - 41 TOXINS
 (103) LEFT

KNOWN CARCINOGENS
 OR
 CAN IMPACT HEALTH/AIR QUALITY

"Must be outside of the fence"

41 Chemicals Proposed for Removal from NR 445

Chemical or agent	C.A.S.	Use
1,4-Dichloro-2-butene	764-41-0	Chemical Intermediate
1,6-Dinitropropene	42397-64-8	Research
1,8-Dinitropropene	42397-65-9	Research
2-Chloropropionic acid	598-78-7	Chemical Intermediate
2-Nitroanisole	91-23-6	Chemical Intermediate
3,3'-Dimethoxybenzidine Dihydrochloride (o-Dianisidine hydrochloride)	20325-40-0	Chemical Intermediate
4-(N-Nitrosomethylamino)-1-(3-pyridyl)-1-butanone, (NNK)	84091-91-4	Research
4,4'-oxybisbenzenamine (2,4-Diaminophenyl ether)	101-80-4	Chemical Intermediate
4-chloro-2-methylaniiline (p-Chloro-o-toluidene)	95-69-2	Chemical Intermediate
4-Chloro-o-phenylene diamine (4-Chloro-1,2-benzenediamine)	95-83-0	Chemical Intermediate
4-Nitropyrene	57835-92-4	Hair Dye/Photographic Chemicals
6-Nitrochrysene	7496-02-8	Not Used in Commercial Product
8-MOP (Methoxsalen, 8-Methoxy psoralen)	298-81-7	Research
Acetone Cyanohydrin, as CN	75-86-5	Medicine
Azacitidine, 5-	320-67-2	Chemical Intermediate
Chloroacetic chloride	79-04-9	Medicine
Chloroacetone	78-95-5	Chemical Intermediate
Chlorozotocin	54749-90-5	Chemical Intermediate
Dichloroacetylene	7572-29-4	Chemical Intermediate
Diisopropylamine	1464-53-5	Research
methyl allyl chloride (Dimethylvinyl chloride)	513-37-1	Research
Methyl vinyl ketone	78-94-4	Research
Ochratoxin A	303-47-9	Research
Phenoxybenzamine hydrochloride	63-92-3	Medicine
Sulfalate	95-06-7	Herbicide
Thioacetamide	62-55-5	Chemical Intermediate
1-Chloroethyl-3-(4-methylcyclohexyl)-1-nitrosourea (MeCCNU)	13909-09-6	Medicine
Methyl methanesulfonate	66-27-3	Medicine & Research
Enflurane	13838-16-9	Medicine
Cisplatin	15663-27-1	Research
Ethinylestradiol (Estrogens, not conjugated)	57-63-6	Medicine
sodium estrone sulfate, sodium equilin sulfate, piperazine estrone sulfate (Conjugated estrogens)	438-67-5/16680-47-0/7280-37-7	Medicine
Trichloroacetic acid	76-03-9	Medicine
Flagyl (Metronidazole)	443-48-1	Medicine
Halothane	151-67-7	Medicine
Ochratoxin A	303-47-9	Research
Phenacetin	62-44-2	Medicine
Cyclosporin A (Cyclosporine, Ciclosporin)	59865-13-3	Medicine
Estrone (Estrogens, not conjugated)	53-16-7	Medicine
Ethyl methanesulfonate	62-50-0	Research
Tamoxifen	10540-29-1	Medicine

Handwritten notes:
 Mr. B
 Mr. C
 Mr. D
 Mr. E
 Mr. F
 Mr. G
 Mr. H
 Mr. I
 Mr. J
 Mr. K
 Mr. L
 Mr. M
 Mr. N
 Mr. O
 Mr. P
 Mr. Q
 Mr. R
 Mr. S
 Mr. T
 Mr. U
 Mr. V
 Mr. W
 Mr. X
 Mr. Y
 Mr. Z



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY 608-267-6897

November 5, 2003

NOV 11 2003

Senator Neal Kedzie
Senate Environmental and Natural Resources Chair
11th Senate District
Wisconsin Legislature
P.O. Box 7882
Madison, WI 53707

Representative DuWayne Johnsrud
Assembly Natural Resources Chair
96th Assembly District
Wisconsin Legislature
P.O. Box 7882
Madison, WI 53707

Dear Senator Kedzie and Representative Johnsrud:

Al Shea and I appreciated the opportunity to meet with you last week to discuss the proposed revisions to Ch. NR 445, Wis. Adm. Code. At the close of the meeting, we promised to provide you with some additional information on diesel generators and on the remaining 103 new substances proposed for regulation. I am attaching the information to this letter.

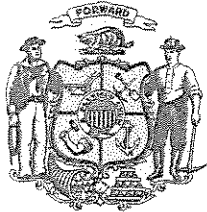
I hope you find this information helpful. I would be glad to meet with you again to discuss this information or any other concerns that you may have.

Sincerely,

Caroline Garber
Bureau of Air Management

Attachments

cc: Elizabeth Kluesner - AD/5
Paul Heinen - AD/5
Al Shea - AD/5
Lloyd Eagan - AM/7



NOV 18 2003

TED KANAVAS

STATE SENATOR

FYI

Monday, November 10, 2003

The Honorable P. Scott Hassett
Secretary,
Wisconsin Department of Natural Resources
101 S Webster St
PO Box 7921
Madison Wisconsin
53707-7921

RE: DNR rulemaking - NR 445.09

Dear Secretary Hassett;

It has come to my attention that the Department of Natural Resources (DNR) plans on including as a part of its rule making on NR 445, particularly NR 445.09 that establish fuel, control, and compliance requirements for "compression ignition internal combustion engines combusting fuel oil" (ie diesel generators). It is my understanding that these engines are primarily used as back up sources of emergency power and other minimal uses.

It is also my understanding that these types of diesel engines are very rarely used and pose little risk as it relates to air-pollutant output. I appreciate the difficult mission the DNR has to protect Wisconsin's environment. However, it seems to me that the inclusion of such provisions in NR 445.09 will have a disproportionate negative impact on Wisconsin businesses versus the nil to minimal gains that could be realized regarding air pollution in Wisconsin.

Wisconsin's manufacturing economy has been hard hit in recent years, and this type of rule appears to be overzealous and will further hurt our manufacturing economy. You and I have spoken numerous times about the importance of balance in the way regulations are developed, and that the benefits of regulation should outweigh the negative impacts on Wisconsin's economy. In my opinion, this instance is one where further review and deliberation should be given to determine what the negative environmental effects of these engines are, versus the impact that this rule will have on one of our key industries.

STATE CAPITOL

P.O. Box 7882 • MADISON, WISCONSIN 53707-7882
(608) 266-9174 • (800) 863-8883 • FAX: (608) 264-6914

NR 445 Letter
11/10/2003
Page 2

Furthermore, should NR 445.09 if passed as proposed, Wisconsin would be an island of regulation as stationary diesel engines are not regulated as such by our neighboring states, thus putting us at a considerable competitive disadvantage.

I respectfully ask that you please thoroughly review these provisions; I believe that you will find that this regulation is indeed onerous and will have a detrimental impact on our goal of growing Wisconsin's economy. Therefore, I ask that you modify the proposed rule and remove NR 445.09 and related references to this section.

Thank you in advance for your attention to this matter, please call me if you would like to discuss NR 445.09 in greater detail.

Sincerely,



TED KANAVAS
State Senator, 33rd Senate District

TJK/bap

CC: Trygve A. Solberg – Chairman, DNR Board
Governor Jim Doyle
✓ State Senator Neil Kedzie
State Representative DuWayne Johnsrud

Garber, Caroline

From: Garber, Caroline
Sent: Thursday, February 19, 2004 4:43 PM
To: 'bentleym@charter.net'
Cc: Schoepke, Jeff; Henderson, Patrick - Office of Governor Jim Doyle; 'Stevens, Pat'; Shea, Allen K; Eagan, Lloyd L.
Subject: nr 445 and diesel

Dear Marc,

Al Shea asked me to respond to your February 11th letter and phone conversation regarding the diesel component in the NR 445 revisions. We will propose an amendment to the requested modifications that addresses your first concern. The issues raised in your second and third points are, we believe, already included in the requested modifications.

First, at the Natural Resources Board meeting this Tuesday, we will recommend a revision to NR 445.09(1)(e) that addresses engines from 100 hp to 175 hp. Specifically, we will propose that these engines (100 hp to less than 175 hp), be exempted from the NR 445 emission limits and permitting requirements if:

- a. the engine is approved to meet the Tier 2 standard and is purchased prior to January 1, 2012
- b. the engine is approved to meet a particulate emission standard of 0.01 gm per brake horsepower-hour (the proposed Tier 4 particulate emission standard) and is purchased on or after January 1, 2012.

This change will properly align the exemption for engines meeting federal standards to the power ratings and compliance deadlines used in the existing and proposed federal standards.

Second, we are already proposing to create an exemption from permitting and controls for new engines that meet the Tier 2 standard and, later, the equivalent of the proposed Tier 4 standard. [NR 445.09(1)(e)] However, we do not exempt Tier 3 engines because these standards are for NOx and hydrocarbons only – not particulate emissions. Also, we do not exempt Tier 4 engines, because these standards don't exist yet. They have been proposed, and we include the proposed standards in the modification to the rule.

Third, the emission standard in NR 445.09(3)(a) is very close to the Tier 2 particulate emission standard. As noted above, Tier 3 has no particulate emission limits. The requested modification includes a provision to delay compliance if the engine will be retired by December 31, 2010, as you suggested. However, our proposal has a 3 year compliance deadline, rather than 1 year as you suggested.

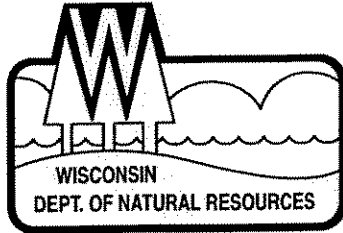
In addition, once an engine meets the applicable emission standard, it is not subject to more stringent standards at a later date, unless it meets the rebuilt definition in NR 445. Furthermore, an engine that meets Tier 2 standards is exempt from NR 445 emission limitations and permit requirements.

In summary, I believe that the modifications, with the amendment in Number 1 above, address the issues you raised. If you have further questions, please give me a call.

 *Caroline Garber*

Chief, Environmental Studies Section
Bureau of Air Management
Wisconsin Department of Natural Resources

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State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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March 5, 2004

Honorable DuWayne Johnsrud, Chair
Assembly Committee on Natural Resources
Room 323 North
State Capitol

Honorable Neal Kedzie, Chair
Senate Committee on Environment and Natural Resources
Room 313 South
State Capitol

Re: Clearinghouse Rule No. 02-097
Control of hazardous air contaminants

Gentlemen:

On October 3, 2003, the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources detailed concerns the Committees had on the proposed rule and asked for modifications. At its February 25, 2004 meeting, the Natural Resources Board made modifications to the proposed rule. The modifications related to the process for determining the need to regulate additional contaminants, the regulation of diesel generators and the applicability of ch. NR 445 emission limits to agricultural facilities and livestock operations. Attached is a copy of the changes that were adopted by the Natural Resources Board. Also attached is a copy of Natural Resources Board Order No. AM-34-02 with the changes incorporated.

Under s. 227.19(4)(b)2., Stats., the Department of Natural Resources refers this action to your Committees for an additional 10 working day review. If the Department does not hear from you within 10 working days of the receipt of this notification, the Department will continue processing this rule.

Sincerely,

Scott Hassett
Secretary

Attach.

cc: Caroline Garber - AM/7
Robert Eckdale - AM/7
Michael Scott - LS/5
Carol Turner - LS/5