



NR 154

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Anthony S. Earl
Secretary

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MADISON, WISCONSIN 53707

IN REPLY REFER TO: _____

STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) SS

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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Anthony S. Earl, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. A-33-77 was duly approved and adopted by this Department on July 21, 1977. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at Pyare Square Building in the Village of Shorewood Hills, this 29th day of September, 1977.

Anthony S. Earl

Anthony S. Earl, Secretary

(SEAL)

STATE OF WISCONSIN NATURAL RESOURCES BOARD

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IN THE MATTER of creating section NR 154.02(4) .
of the Wisconsin Administrative Code pertaining .
to variances to air contaminant sources due to . A-33-77
an energy emergency .
.....

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

CREATING RULES

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by sections 144.31 and 227.014, Wisconsin Statutes, the State of Wisconsin Natural Resources Board hereby creates rules as follows:

SECTION 1 - Section NR 154.02 (4) is created to read:

(4) The department may grant temporary variances from the emission limits of this chapter to air contaminant sources which request such variances in order to switch from a regular fuel to an alternate fuel which is in more plentiful supply, provided that the conditions of this subsection are met.

(a) If the office of state planning and energy has certified that a switch from the fuel regularly used by the applicant to an alternate fuel which would cause an emission limit to be exceeded is needed to protect public health, safety or welfare in the applicant's part of the state, the department may grant a temporary variance from emission limits provided that:

1. The applicant has submitted a list of steps which will be implemented without delay to minimize adverse effects caused by the switch in fuels permitted by the variance, including all feasible steps to minimize use of the alternate fuel through energy conservation and other measures; and

2. The applicant has provided, or has agreed to provide within 5 days after the date the variance is granted, information on the type, quantity and quality of fuel and rate of consumption in use before and to be used after the switch in fuels; and

3. Granting the variance would be unlikely to cause or exacerbate a violation of any primary ambient air quality standard; and

4. Litigation for violation of an emission limit prescribed in this chapter or an ambient air quality standard prescribed in Wis. Adm. Code chapter NR 155 is not presently pending; and

5. The applicant has agreed to submit no later than 90 days from the date that the variance is granted a plan and time schedule for preventing the recurrence of the conditions which necessitated a variance request; and

6. The applicant submitted and implemented in good faith any plan required to be submitted as a condition to a previously-granted variance; and

7. After July 1, 1978, if the applicant uses natural gas or distillate oil as a regular fuel, the applicant has submitted and received department approval of a plan to minimize dependence on these fuels while complying with the emission limits of this chapter.

(b) If the office of state planning and energy has not certified that a switch in fuels is needed, the department may grant a temporary variance from the emission limits of this chapter only if the conditions of (4)(a)1. through 7. are met and the applicant has submitted documentation of the unavailability of the fuel regularly used and of any alternate fuel which the air contaminant source has the capability to burn in compliance with emission limits.

(c) When granting a variance is likely to cause a secondary standard (but not a primary standard) to be violated or exacerbated, the following conditions shall apply:

1. The variance must specify an expiration date no later than 45 days from the date the variance is granted.

2. Prior to granting a variance extension which expires on a date more than 45 days after the date the variance was originally granted, the department shall:

a. Determine either that the applicant's regular fuel is unavailable or that certification by the office of state planning and energy of the need for a switch in fuels in the applicant's part of the state remains in effect; and

b. Evaluate through ambient air quality monitoring and/or dispersion modeling the air quality impact of granting the variance and determine that maintenance of the primary standards is not being endangered; and

c. Solicit and consider public comment on permitting the extension.

(d) When granting a variance is unlikely to cause any ambient air quality standard to be violated, the following conditions shall apply:

1. The variance must specify an expiration date no later than 60 days from the date the variance is granted.

2. Prior to granting a variance extension which expires on a date more than 60 days after the date the variance was originally granted, the department shall:

a. Determine either that the applicant's regular fuel is unavailable or that certification by the office of state planning and energy of the need for a switch in fuels in the applicant's part of the state remains in effect; and

b. Evaluate through ambient air monitoring and/or dispersion modeling the air quality impact of granting the variance. If the evaluation indicates that maintenance of the air standards is not being endangered, an extension may be granted. If the evaluation indicates that a secondary air standard has been or may be violated, the procedure set forth in subsection (4)(c)2. shall apply.

(e) The department may rescind or amend a variance granted under NR 154.02(4) at any time.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on July 21, 1977.

The rules contained herein shall take effect upon publication.

Dated at Madison, Wisconsin 29 September 1977

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Anthony S. Earl
Anthony S. Earl, Secretary