

[NOTE: The deadline for submittal of comments has been extended from April 14 to May 5, 2008]

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PUBLIC HEARINGS
AM-32-05

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11(2)(a), and 285.11(1) and (6), Stats., interpreting ss. 285.11(6), Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 446, Wis. Adm. Code, relating to the establishment of provisions for coal-fired electric generating units in Wisconsin to limit mercury air emissions. The State Implementation Plan developed under s. 285.11(6), Stats., is also being revised.

In May 2007, public hearings were held on revisions to chs. NR 440 and 446, Wis. Adm. Code, relating to the establishment of provisions for coal-fired electric generating units in Wisconsin to comply with the Clean Air Mercury Rule (CAMR) promulgated by the U.S. Environmental Protection Agency (EPA). On February 8, 2008, the Washington D.C. Court of Appeals vacated the CAMR. The Court found that the EPA's approach to regulating mercury emissions from coal-fired electric generating units in the CAMR was unlawful. As a result these proposed revisions no longer include provisions related to the federal CAMR.

The Department is proceeding with this rulemaking to address Governor Doyle's August 25, 2006, directive to the Department to develop a rule achieving a 90% reduction of mercury emissions from coal-fired power plants. In addition, these revisions respond to a January 22, 2007, Citizen Petition submitted to the Department and Natural Resources Board under provisions in s. 227.11(2)(a) and 227.12(1) and (2), Wis. Stats., and NR 2.05 Wis. Adm. Code. This petition requested that the Department and Board conduct rulemaking proceedings to revise and adopt rules that require a 90% to 95% reduction of mercury to the air from coal-fired electric generating units in the state by January 1, 2012.

Under these proposed revisions to ch. NR 446, Wis. Adm. Code, the state's large coal-fired electric generating units, 150 megawatts and larger, must follow one of two compliance paths to achieve a 90% mercury emission reduction. By January 1, 2015, the state's large coal-fired electric generating units, 150 megawatts and larger, must achieve a 90% mercury reduction, as measured from the mercury content of coal combusted, or limit the concentration of mercury emissions to 0.008 pounds mercury per gigawatt-hour.

Under the alternative multipollutant compliance path an additional six years, until January 1, 2021, is allowed for large coal-fired electric generating units to achieve the 90% mercury reduction requirement. By January 1, 2015, these large units must achieve nitrogen oxides and sulfur dioxide reductions beyond those currently required by federal and state regulations. An interim mercury reduction of 70% must be achieved by January 1, 2015 and beginning January 1, 2018 another interim reduction of 80% is required. Owners and operators must designate which of their large electric generating

units will follow the multipollutant option within 24 months after the effective date of the rule. Large electric generating units that are not designated for the multipollutant option, will, by default, be required to achieve the 90% mercury emission reduction by 2015.

Small coal-fired electric generating units, greater than 25 megawatts but less than 150 megawatts, must reduce their mercury emissions to a level defined as Best Available Control Technology (BACT). After all the mercury reduction requirements in these proposed revisions become effective for small and large electric generating units almost 4,400 pounds of mercury air emissions will be prevented from being emitted annually.

These revisions retain the January 1, 2010, mercury reduction requirement in the current state mercury rule. Under this requirement the state's four major utilities, Alliant Energy, Dairyland Power Cooperative, WE Energies and Wisconsin Public Service Corporation, must reduce mercury emissions from their existing coal-fired electric generating units 40% from the baseline established under provisions in the current rule.

The revisions also propose that any new coal-fired electric generating unit install mercury control technology which achieves a minimum mercury reduction of 90% when it commences operation.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary finding under s. 285.27(2)(b), Stats., that the mercury emission limitations proposed in this revision are needed to protect public health and welfare. In the absence of a federal standard promulgated under section 112, the hazardous air pollutant provisions of the Clean Air Act, the Department may promulgate a standard if it finds that a standard is needed to provide adequate protection of public health and welfare. The Department's is also seeking comment on this preliminary public health and welfare finding.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have a direct economic impact on small businesses. The proposed revisions impose no reporting, compliance or performance standards on small businesses. The proposed revisions may increase the cost of electricity and therefore may have an indirect impact on small businesses through higher electricity costs. The Department's Small Business Regulatory Coordinator may be contacted at Small.Business@Wi.Gov or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that the public hearings will be held on:

Monday, April 7, 2008	Room G09 – GEF II, 101 S. Webster St., Madison, WI at 9:00 am.
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NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please contact Robert Eckdale at (608) 266-2856 or by e-mail at Robert.Eckdale@Wisconsin.Gov with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule and supporting documents, including the fiscal estimate and preliminary public health finding, may be viewed and downloaded and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. (Search this Web site using the Natural Resources Board Order Number AM-32-05.) If you do not have Internet access, a personal copy of proposed rule and supporting documents, including the fiscal estimate and public health finding may be obtained from Robert Eckdale by calling (608) 266-2856 or by writing him at Bureau of Air Management, P.O. Box 7921, Madison, WI 53707.

Written comments on the proposed rule and preliminary public health finding may also be submitted to Jon Heinrich, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 or by e-mail to Jon.Heinrich@Wisconsin.Gov no later than April 14, 2008. Written comments will have the same weight and effect as oral statements presented at the public hearings.

Dated at Madison, Wisconsin February 29, 2008

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By / S / Matthew J Frank
Matthew J. Frank, Secretary