

Chapter NR 486

EMPLOYEE TRIP REDUCTION PROGRAM

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NR 486.01 **Applicability; purpose.** (1) **APPLICABILITY.** This chapter applies to all employers with worksites of 100 or more employees in the Wisconsin severe ozone nonattainment area, pursuant 42 USC 7511a (d) (1) (B).

(2) **PURPOSE.** The purpose of this chapter is to establish, pursuant to s. 144.3712, Stats., requirements for the development of an employee trip reduction program.

History: Cr. Register, September, 1993, No. 453, eff. 10-01-93.

NR 486.02 **Definitions.** The definitions contained in ch. NR 400 apply to the terms used in this chapter. In addition, the following definitions apply to the terms used in this chapter:

(1) "Affected area" means Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha counties.

(2) "Affected employee" means an employee who reports or is assigned on a regular schedule to a worksite of 100 or more employees during the peak travel period. This term includes employees who are employed half-time or more at the worksite during the ozone season and report during the peak travel period.

(3) "Affected employer" means any person, firm, business, educational institution, government department or agency, nonprofit agency or corporation, or other entity which employs a weekly average of 100 or more employees in a one year period at a single worksite within the affected area.

(4) "Alternative means of commuting" means travel between an employee's place of residence and primary worksite, a minimum of 2 miles from the primary worksite, other than in a vehicle occupied by one person. Alternative means of commuting include but are not limited to the use of public transit, carpools, vanpools, buspools, bicycling, walking, telecommuting and compressed work schedules which are designed to reduce the number of days per week an employee must travel to work.

(5) "Average passenger occupancy" means the number of affected employees reporting to a worksite during the peak travel period divided by the number of vehicles in which those employees report as determined by the survey required under s. NR 486.06 (3).

(6) "Base average vehicle occupancy rate" means the number of employees reporting to all employers in the affected area during the peak

travel period divided by the number of vehicles in which those employes report, as determined in 1992 from travel survey results submitted by the department and approved by the U.S. environmental protection agency. The base average vehicle occupancy rate for the affected area is 1.12.

(7) "Buspool" means a contracted bus service, usually administered by employers or employes, and typically involving limited pickup and destination stops, guaranteed seats, and advance reservations and ticket issuance.

(8) "Carpool" means a group of 2 to 4 persons commuting to and from work in a vehicle.

(9) "Clean fuel vehicle" means a vehicle capable of operating on liquid petroleum gas, methanol, compressed natural gas or electricity or which has been certified by the department as a clean fuel vehicle meeting low emission, ultra low emission or zero emission vehicle standards.

(10) "Commuter transportation incentive or disincentive" means the financial benefits, amenities or other strategies employers develop in their employe trip reduction compliance plans which encourage or facilitate employes to use alternative means of commuting and which discourage single occupancy vehicle travel. Commuter transportation incentives include but are not limited to the compliance plan options described in s. NR 486.06(1) (h).

(11) "Compliance plan" means the employe trip reduction program plan required under this chapter and described in s. NR 486.06.

(12) "Compressed work schedule" means a work schedule which reduces the number of days an employe is required to travel to a worksite. Examples of a compressed work schedule include but are not limited to: 4 10-hour work days per week; 3 12-hour work days per week; and 8 9-hour work days plus one 8-hour work day in a 2 week period.

(13) "Employee" means any person employed by an affected employer who reports to or is assigned primarily to a worksite half-time or more in either a permanent or temporary capacity, on either a contract or employed basis, excluding volunteers.

(14) "Employe transportation coordinator" means a person who has completed department approved training on employe trip reduction and who has primary responsibility for developing and coordinating the alternative means of commuting strategies in an affected employer's compliance plan.

(15) "Guaranteed ride home" means transportation provided by the employer for employes who rideshare when the employe experiences unforeseen overtime, emergency, illness or other situations which prevent the employe from meeting the employe's alternative means of commuting schedule.

(16) "Peak travel period" means the time between 6 a.m. and 10 a.m. Monday through Friday.

(17) "Public transit" means transportation by bus, shared-ride taxicab, rail, or other conveyance, either publicly or privately owned, that provides the public with general or special service on a regular and continuing basis and is a funded program under s. 85.20, Stats.

(18) "Target average passenger occupancy rate" means the average passenger occupancy rate which affected employers shall meet. It is the base average vehicle occupancy rate multiplied by 1.25. The target average passenger occupancy rate for the affected area is 1.4 passengers per vehicle.

(19) "Telecommuting" means an employe working at the employe's residence using electronic communication or other means to perform job functions which would otherwise be performed at the worksite.

(20) "Transportation allowance" means a financial fringe benefit provided by the employer which is used by an employe to purchase transportation services for commuting to the worksite.

(21) "Vanpool" means a group of 5 or more persons commuting to and from work in a vehicle designed to carry not more than 15 adult passengers.

(22) "Worksite" means a building or group of buildings located within the affected area which are adjacent or separated only by a private or public roadway or other private or public right-of-way, and which are owned and operated by the same employer or by employers under common control as described in s. NR 486.03 (1).

History: Cr. Register, September, 1993, No. 453, eff. 10-01-93.

NR 486.03 General requirements; exceptions. (1) GENERAL REQUIREMENTS. Each affected employer shall comply with the requirements of this chapter at each affected worksite. Each affected employer shall submit and implement a plan to increase the average passenger occupancy rate of its affected employes to not less than 1.4 passengers per vehicle by November 15, 1996 or within 2 years of the employer's initial compliance plan submittal if it is due after November 15, 1994. For purposes of this chapter, if several subsidiaries or units occupy the same worksite and report to one common governing board or governing entity, they are considered to be one employer.

(2) **EXCEPTIONS.** The following exceptions shall apply to the requirements of this section:

(a) Affected employers with 33 or fewer employes arriving at the worksite during the peak travel period are not required to comply with the employe trip reduction requirements of this chapter, provided they submit documentation to the department certifying that 33 or fewer employes arrive at the worksite during the peak travel period.

(b) A separate worksite, including a worksite of an affected employer, which has fewer than 100 employes is not subject to the requirements of this chapter.

History: Cr. Register, September, 1993, No. 453, eff. 10-01-93.

NR 486.04 Notification; registration. (1) NOTIFICATION. The department shall use the following means to notify affected employers of the requirements of this chapter:

(a) The department shall obtain mailing lists which contain the names, addresses and number of employes, if known, of employers with 100 or more employes in the affected area and mail information to the employers about the employe trip reduction program.

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(b) After mailing the information under par. (a) the department shall publish notifications of the employe trip reduction program and registration requirements of this chapter in newspapers having a circulation in the affected area counties.

(2) **REGISTRATION.** Affected employers shall use the following registration procedures:

(a) Affected employers located in the affected area prior to November 15, 1993 shall within 60 days of receipt of registration forms from the department submit the completed forms to the department. Affected employers which have not received the registration forms shall obtain the forms from the department and submit the completed forms within 60 days after publication of the registration requirements in newspapers having a circulation in the affected area counties. The information required on the registration forms shall include the following:

1. The name and address of the employer.
2. The name, address and telephone number of the person or persons designated to receive the compliance plan forms required under s. NR 486.06.
3. The address of each worksite in the affected area employing 100 or more employes at a single worksite and the number of employes at each worksite.
4. Other information as may be necessary to implement the requirements of this chapter.

(b) Employers who become affected employers on or after November 15, 1993 shall register with the department within 60 days of qualifying as an affected employer.

Note: The forms referred to in this section are available on request from the following address: Wisconsin Department of Natural Resources, Bureau of Air Management, Employe Commute Options Program, P.O. Box 7921, Madison WI 53707.

History: Cr. Register, September, 1993, No. 453, eff. 10-01-93.

NR 486.05 Employe transportation coordinator. (1) **GENERAL REQUIREMENTS.** Each affected employer shall designate and register with the department at least one person as an employe transportation coordinator for the employer. One coordinator may be designated for more than one worksite of an affected employer. A coordinator may be a person under contract to the affected employer. The coordinator shall register for and complete a primary training program approved by the department. The coordinator shall complete the primary training program prior to the development and submittal of the compliance plan to the department under ss. NR 486.06 and 486.07. If the only designated coordinator terminates employment with the employer or terminates his or her designated coordinator status, the employer shall designate and register another coordinator with the department within 60 days of the termination. If the affected employer's coordinator does not report to the affected worksite a minimum of half-time, the department may require assurances that staff resources at the worksite are sufficient to implement the alternative means of commuting in an approved compliance plan.

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(2) **PRIMARY EMPLOYE TRANSPORTATION COORDINATOR TRAINING.** The coordinator training program shall include but not be limited to the following:

- (a) Training on the requirements of this chapter.
- (b) Training on the sections of the clean air act pertaining to the employe trip reduction program included in 42 USC 7511a (d) (1) (B).
- (c) Information on the contribution of vehicle emissions to the severe ozone air quality problem in the affected area.
- (d) Training on the correct procedures for completing and submitting department employe trip reduction compliance plan forms.
- (e) Training on evaluating effective alternative means of commuting based on characteristics of the employer worksite and the travel and work characteristics of the affected employees.
- (f) Training on the effective promotion of the alternative means of commuting strategies in the employer's compliance plan.
- (g) Information on alternative commuting strategies which will assist affected employers in achieving and maintaining their target average passenger occupancy rate.

(3) **SUBSEQUENT TRAINING.** The employe transportation coordinator shall attend subsequent training on the employe trip reduction program as may be required by the department not more than every 2 years.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 486.06 Employe trip reduction compliance plans and surveys. (1) COMPLIANCE PLAN SUBMITTAL. (a) Affected employers shall complete and submit compliance plans to the department using forms provided by the department.

(b) Separate worksites of the same affected employer which are within one half mile of each other may submit a combined compliance plan upon prior approval of the department.

(c) Two or more affected employers may submit a combined compliance plan upon prior approval of the department for separate worksites which are located within one half mile of each other. Each affected employer submitting a combined compliance plan shall comply with sub. (2) (b).

(2) **COMPONENTS OF A COMPLIANCE PLAN.** The department's bureau of air management shall assist affected employers with developing their compliance plans. The compliance plans submitted to the department under this chapter shall include the following information:

(a) The name and address of the worksite or worksites, and the names and addresses of the employe transportation coordinator or other personnel who will be responsible for compliance plan development and implementation.

(b) A letter to the department signed by the chief executive officer or the highest ranking official at the worksite certifying the accuracy of the information in the compliance plan and a commitment to implement the

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alternative means of commuting in the compliance plan approved by the department.

(c) Documentation indicating that the employe transportation coordinator has completed a department approved training program and any subsequent training as may have been required by the department.

(d) Documentation of the number of employes employed at the worksite or worksites, using forms prescribed by the department.

(e) A calculation of the worksite average passenger occupancy rate using the results of the survey required under sub. (3).

(f) A profile of worksite employe characteristics as they pertain to the development of the compliance plan using forms prescribed by the department.

(g) A profile of the worksite transportation access characteristics using forms prescribed by the department.

(h) An employer plan for providing alternative means of commuting incentives or single occupancy vehicle commuting disincentives or both to its employes which are sufficient to achieve or maintain the target average passenger occupancy rate by November 15, 1996 or within 2 years of the employer's initial compliance plan submittal if it is due after November 15, 1994. The employer shall include a time schedule for implementing the commuter transportation incentives or disincentives or both which will promote alternative means of commuting by its employes. The schedule may include contingency strategies and trial periods to test alternative means of commuting. The alternative means of commuting strategies shall be in effect throughout the year. Employers may augment the strategies in an approved compliance plan during the ozone season. The alternative means of commuting strategies may include one or more of the following commuter transportation incentives or disincentives or other strategies approved by the department:

1. Establishment of a transportation allowance policy which provides financial incentives for employes to choose alternative means of commuting.

2. A parking fee structure or preferential parking policy or both for employes which encourages alternative means of commuting and discourages single occupancy vehicle trips.

3. Financial or fringe benefit incentives for using buspools, carpools and vanpools and for walking or biking to the worksite.

4. Subsidies for employe use of public transit or buspools.

5. Establishment of employer buspool, carpool and vanpool information and matching programs and coordination with similar public programs.

6. Employer sponsored vehicles for buspool, carpool and vanpool commuting, work related travel and employe personal travel needs.

7. A guaranteed ride home program for employes.

8. Telecommuting and work at home options for employes.

9. Promotion of compressed work schedules for employes.

10. Facility improvements which promote biking and walking to work by employes.

11. Promotion of flexible work schedules which facilitate the use of alternative means of commuting.

12. Promotion of the use of clean fuel vehicles for commuting.

13. Dissemination of general information to employes on the environmental, financial and other benefits of alternative means of commuting.

14. Provision of worksite amenities which promote the use of alternative means of commuting.

15. Assessment by survey or other means of the types of alternative means of commuting incentive and disincentive strategies employes feel would most likely result in attaining and maintaining the target average passenger occupancy rate.

16. Promotion of programs and policies which encourage employes to reside close to their worksite.

(3) AVERAGE PASSENGER OCCUPANCY SURVEY REQUIREMENTS. Affected employers shall determine the average passenger occupancy rate of affected employe vehicles reporting to each worksite during the peak travel period by conducting a survey of affected employes using forms and methods provided or approved by the department. The survey shall be taken over a consecutive 5 day period which begins on Monday and which does not include a holiday, follow a week which includes a Friday holiday, or precede a week which includes a Monday holiday. Surveys which are used to demonstrate compliance with the target average passenger occupancy rate shall be taken during the ozone season. The employer shall tabulate and report the results of the survey to the department for each worksite and include the following information:

(a) The number of affected employes reporting to the worksite during the peak travel period on each day of the Monday through Friday workweek and the number of affected employes absent, having a scheduled day off due to a compressed work schedule, working at home or reporting to an alternative worksite.

(b) The number of affected employes using each mode of travel in commuting to work during the peak travel period, including the use of single occupancy vehicles, public transit, buspooling, carpooling, vanpooling, clean fueled vehicles and other alternative means of commuting. The following guidelines shall apply to the computation of affected employes and vehicles arriving at the worksite during the peak travel period for each survey day:

1. An employe who reports to the worksite alone in a vehicle not considered a clean fuel vehicle shall be counted as one person reporting to the worksite in one vehicle.

2. An employe who reports in a carpool or vanpool shall be counted as reporting to the worksite in a fraction of a vehicle proportionate to the number of people sharing a ride to their worksite.

3. An employe who reports by public transit or buspool shall be counted as one person reporting to the worksite in zero vehicles.

4. An employe telecommuting or working at home and who does not commute to the worksite shall be counted as one person reporting to the worksite in zero vehicles.

5. An employe working full-time on a compressed work schedule shall be counted as one person reporting to the worksite on their compressed weekday off in zero vehicles.

6. An employe who reports to the worksite by walking or riding a nonmotorized bicycle from the employe's residence shall be counted as one person reporting to the worksite in zero vehicles.

7. An employe who transfers to a carpool, vanpool, buspool or public transit vehicle at a transit or rideshare collection point shall make the transfer a minimum of 2 miles from the worksite in order to be counted as reporting to the worksite in a carpool, vanpool, buspool or public transit vehicle. If the transfer point is less than 2 miles from the worksite, the employe shall be counted as reporting to the worksite according to the mode of travel to the transfer point.

8. An employe who reports to the worksite in a clean fuel vehicle shall be counted as one person arriving at the worksite in a fraction of a vehicle according to standards prescribed by the department.

9. An employe who reports to the worksite in a vehicle that is continuing to another worksite shall be counted as one person reporting to the worksite in accordance with subd. 2.

Note: The forms referred to in this section are available on request from the following address: Wisconsin Department of Natural Resources, Bureau of Air Management, Employee Commute Options Program, P.O. Box 7921, Madison WI 53707.

History: Cr. Register, September, 1993, No. 453, eff. 10-01-93.

NR 486.07 Compliance plan submittal deadline. (1) **CURRENTLY AFFECTED EMPLOYERS.** Affected employers located in the affected area prior to November 15, 1993 shall submit compliance plans to the department no later than November 15, 1994 or within 120 days of formal notification by the department that compliance plans are due, whichever comes first.

(2) **FUTURE AFFECTED EMPLOYERS.** Employers which become affected employers on or after November 15, 1993 shall submit plans to the department within 180 days of becoming affected employers.

History: Cr. Register, September, 1993, No. 453, eff. 10-01-93.

NR 486.08 Compliance plan review, approval and disapproval process. (1) **COMPLIANCE PLAN REVIEW.** The department shall review each compliance plan required to be submitted under this chapter. The department shall notify the employer within 90 days of the submittal of the department's decision to approve the plan as submitted, to conditionally approve the plan if the employer modifies the plan according to recommendations made by the department within 60 days, to disapprove the plan and require the submittal of another plan, or to extend the department's review of the compliance plan document beyond 90 days. If the department extends its compliance plan review period beyond 90 days, the employer's compliance plan shall be considered conditionally approved until the department notifies the employer of its final approval or disapproval decision.

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(2) **COMPLIANCE PLAN APPROVAL.** The department's criteria for granting approval or conditional approval of the employer's compliance plan shall include the following:

(a) The compliance plan is submitted on forms prescribed by the department.

(b) The information on the forms is complete and legible.

(c) The information and data on the forms are accurate.

(d) The compliance plan includes sufficient and appropriate alternative means of commuting incentive or disincentive strategies or both to ensure the affected employer's target average passenger occupancy rate will be achieved no later than November 15, 1996. If the employer's initial compliance plan submittal is due after November 15, 1994, the target average passenger occupancy rate shall be achieved within 2 years of the initial submittal due date.

(e) The plan contains any other information required to implement the requirements of this chapter.

(3) **COMPLIANCE PLAN DISAPPROVAL.** If an employer's submitted compliance plan fails to meet the criteria of sub. (2) the department may disapprove it and require the submittal of another plan within 60 days of the department's disapproval notification. If the department's review of the second plan does not result in approval or conditional approval, the employer shall submit a third plan within 30 days. If the third plan cannot be approved by the department, the employer shall implement alternative means of commuting strategies contained in the plan which are approved by the department in its response to the third plan submittal. The department shall provide the reasons for all disapprovals in writing to the employer.

(4) **COMPLIANCE PLAN MODIFICATIONS.** Employers shall notify the department concerning any significant modifications to the department approved compliance plan. The department shall determine whether the modifications affect the approval status of the employer's compliance plan and shall provide a written response approving or disapproving the modifications.

History: Cr. Register, September, 1993, No. 453, eff. 10-01-93.

NR 486.09 Annual employe trip reduction compliance plan renewal. Affected employers shall submit compliance plan renewals on an annual basis, beginning no later than November 15, 1996, or within 2 years of the plan approval date by the department of their initial compliance plan, whichever comes later. If the employer's initial compliance plan submittal is due after November 15, 1994, the compliance plan renewal shall be submitted within 2 years of the initial submittal due date.

(1) **ANNUAL COMPLIANCE PLAN RENEWAL FORMS, SURVEYS AND SUBMITTAL.** The compliance plan renewal shall include the following:

(a) An update of the information specified in s. NR 486.06 using forms provided by the department.

(b) An evaluation of the average passenger occupancy rate documented in the compliance plan renewal compared with the target aver-

age passenger occupancy rate required for compliance. The employer shall use forms and methods provided or approved by the department.

(c) A progress report on the employer's alternative means of commuting strategies in its initial department approved compliance plan which includes reasons for any omissions or delays or both in implementing the plan strategies.

(d) An assessment of the changes in travel mode and worktrip distances experienced by employees participating in alternative means of commuting as a result of the employee trip reduction program. The employer shall use forms and methods provided or approved by the department.

(e) A revised set of alternative means of commuting strategies using forms provided by the department which is appropriate and sufficient to increase the affected employer's average passenger occupancy rate to the target average passenger occupancy within 1 year of submitting the employee trip reduction compliance plan renewal. This requirement shall only apply to employers which fail to achieve the target average passenger occupancy rate of 1.4.

(f) A commitment to continue the alternative means of commuting strategies in a department approved plan at a level sufficient to maintain the continued achievement of the target average passenger occupancy rate for a minimum of 1 year. This requirement shall apply to employers which achieve compliance with the target average passenger occupancy rate of 1.4

(2) ANNUAL COMPLIANCE PLAN RENEWAL REVIEW, APPROVAL AND DISAPPROVAL. The department's criteria for reviewing and granting approval or conditional approval of the employer's annual compliance plan renewal shall include the criteria and processes described in s. NR 486.08 except that:

(a) Affected employers failing to achieve the target average passenger occupancy rate after implementing the alternative commuting strategies in the initial compliance plan and the first annual compliance plan renewal may be required to implement other alternative means of commuting strategies approved by the department.

(b) Affected employers submitting 2 consecutive annual compliance plan renewals which achieve the target average passenger occupancy may be permitted by the department to submit biennial plans which certify that the target average passenger occupancy rate is being maintained by the employer's alternative means of commuting strategies.

History: Cr. Register, September, 1993, No. 453, eff. 10-01-93.

NR 486.10 Averaging; trading. Employers wishing to participate in an averaging or trading option shall submit details of the proposal to the department and obtain department approval before implementing the option.

(1) **AVERAGING.** Affected employers may comply with the target average passenger occupancy rate of 1.4 by participating in a department approved averaging option. This option allows affected employers to combine affected employees for purposes of surveying the average passenger occupancy rate of all worksites participating in the averaging option
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and determining compliance with the target average passenger occupancy rate of not less than 1.4. The department will permit averaging for the following combinations of affected worksites:

(a) Affected employers participating in combined employee trip reduction compliance plans as described in s. NR 486.06 (1) (b) and (c).

(b) Separate affected worksites of the same employer within the affected area.

(2) **TRADING.** Affected employers may participate in a department approved trading option. The trading option allows affected employers which exceed the target average passenger occupancy rate to trade the excess average passenger occupancy credits to employers which do not achieve the target average passenger occupancy rate. The requirements for participating in a department approved trading option shall include the following:

(a) Affected employers participating in the trading option shall provide information to the department demonstrating that use of the option will result in substantially the same reduction in vehicle use or emissions as would be required if the trading option was not used.

(b) Affected employers participating in the trading option shall provide information demonstrating that the traded average passenger occupancy credits will be during the same ozone season.

(c) Affected employers participating in the trading option shall be required to demonstrate compliance with the target average passenger occupancy rate on an annual basis during the ozone season.

(d) Affected employers participating in the trading option shall be required to use department approved forms and methods for computing and trading average passenger occupancy credits.

Note: The forms referred to in this section are available on request from the following address: Wisconsin Department of Natural Resources, Bureau of Air Management, Employee Commute Options Program, P.O. Box 7921, Madison WI 53707.

History: Cr. Register, September, 1993, No. 453, eff. 10-01-93.

NR 486.11 Recordkeeping and monitoring. Affected employers shall retain copies of their employee trip reduction compliance plan forms for a period of not less than 3 years. Employers shall also maintain records of information relevant to the development and implementation of alternative means of commuting strategies in their approved compliance plans. The department may inspect, verify and audit an employer's compliance plan records and monitor activities related to an employer's alternative means of commuting strategies.

History: Cr. Register, September, 1993, No. 453, eff. 10-01-93.

NR 486.12 Enforcement procedures and penalties. Affected employers shall be subject to department enforcement procedures and penalties in accordance with ss. 144.423 and 144.426, Stats., and ch. NR 494 if they fail to comply with the requirements of this chapter.

History: Cr. Register, September, 1993, No. 453, eff. 10-01-93.