Chapter NR 490

PROCEDURES FOR NONCONTESTED CASE PUBLIC HEARINGS

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NR 490.01 Applicability; purpose. (1) APPLICABILITY. This chapter applies to any person, state or agency authorized to request a public hearing under s. 144.392 (7) (a), 144.3925 (5) (a), or 144.397 (4) (a), Stats., and to any person submitting written comments on a permit application or permit review.

(2) PURPOSE. This chapter is adopted under ss. 144.31 and 144.403, Stats., to establish the content of a request for a public hearing and the procedure to follow when submitting such a request to the department, and to establish procedures for the submission of written comments to the department and the processing of comments by the department.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86; am. (2), Register, May, 1992, No. 437, eff. 6-1-92.

NR 490.02 Definitions. The definitions contained in ch. NR 400 apply to the terms used in this chapter.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86.

NR 490.025 Form and service of request. (1) Any person, state or agency authorized to request a public hearing under s. 144.392 (7) (a), 144.3925 (5) (a) or 144.397 (4) (a), Stats., shall submit such request in a form which complies with the applicable statutory requirements. The following format is a suggested format for requesting a public hearing:

TO The Department of Natural Resources:

REQUEST FOR NONCONTESTED CASE PUBLIC HEARING

The undersigned hereby requests a noncontested case public hearing on the (air pollution control permit application submitted by _____to the department on _____, 19__) (operation permit issued by the department to _____ on _____, 19__) under section 144.392 (7) (a), 144.3925 (5) (a) or 144.397 (4) (a), Stats., as appropriate.

The requestor's interest in filing the request is _____

The reasons why a public hearing is warranted are _____

Date of Request _____

Signature _____

Name and Address _____

(2) A request for a public hearing under this section shall be submitted to the department within 30 days after the publication of the class 1 notice under ch. 985, Stats., announcing the opportunity to request a public hearing on the permit or permit application. Requests for hearings shall

be mailed or personally delivered to the department to the person and the address specified in the notice.

History: Renum. from NR 154.24 (1) and am. Register, September, 1986, No. 369, eff. 10-1-86.

NR 490.03 Notice of hearing. (1) If the department receives a request for a hearing under s. NR 490.025 and the department determines that there is a significant public interest in holding a hearing, the department may hold a public hearing and, if a hearing is held, shall close the record of the public hearing within 70 days after the deadline for requesting a hearing. Not less than 10 days, and not less than 30 days for hearings related to issuance, renewal, revision, suspension or revocation of operation permits for part 70 sources, prior to the public hearing, the department shall publish a class 1 notice under ch. 985, Stats., announcing the hearing and shall serve a written notice of the hearing on the requestor, the permit applicant or permit holder and persons listed under s. 144.392 (5) (a) 2 to 5, Stats. The department may serve the notice of hearing by personal delivery or by mailing a copy of the notice to the last known post office address of the person to be served in a sealed envelope with first class postage prepaid.

(2) The notice of hearing shall contain the date, time and location of the hearing, the statutory authority for the hearing, a short summary of the matter to be considered and such other information as the department may deem appropriate.

History: Renum. from NR 154.24 (2) and am. Register, September, 1986, No. 369, eff. 10-1-86; am. (1), Register, December, 1993, No. 456, eff. 1-1-94.

NR 490.04 Conduct of hearing. (1) The presiding officer will open the hearing and make a concise statement of the scope and purposes of the hearing. Appearances will then be entered on the record. A person desiring to participate in the hearing shall enter his or her appearance in person by giving his or her name and address and the name and address of any party the person is representing and the capacity in which he or she is representing the party. Persons entering their appearance at the hearing may make statements and offer evidence relevant to the scope and purposes of the hearing. The hearing will be closed upon completion of the statements and submission of the evidence.

(2) The hearing may be tape recorded by the department. If the hearing is recorded and a transcript of the hearing is made by the department, copies will be furnished to any person who requests a transcript upon payment of a reasonable fee. If the hearing is recorded and no transcript is deemed necessary by the department and a person requests that one be prepared, the department instead will provide the person a copy of the tape recording of the hearing upon payment of a reasonable fee.

(3) The presiding officer will prepare a summary of the hearing for use by the department.

History: Renum. from NR 154.24 (3), Register, September, 1986, No. 369, eff. 10-1-86.

NR 490.05 Written comments. Any person may submit written comments on the permit application or permit review to the department during the public comment period provided for in the public notice or at any public hearing held. All written comments submitted to the department during the public comment period will have the same weight and effect as statements made by persons appearing at a public hearing.

History: Renum. from NR 154.24 (4), Register, September, 1986, No. 369, eff. 10-1-86.

Chapter NR 491

PROCEDURES FOR ALTERATION OF PERMITS BY PETITION

History: Renum. from NR 154.25, Register, September, 1986, No. 369, eff. 10-1-86; r. Register, December, 1993, No. 456, eff. 1-1-94.