



November 7, 2023

Department of Natural Resources
Attn: Maria Hill
101 S. Webster Street
Madison, WI 53703

Sent via e-mail to Maria.Hill@wisconsin.gov

RE: WMC/WPC Comments on the Draft Board Order AM-05-22 (NR 439), relating to air quality reporting requirements for sources

Dear Ms. Hill,

Wisconsin Manufacturers & Commerce (WMC) and the Wisconsin Paper Council (WPC) submit these written comments in reference to the Department of Natural Resources' ("WDNR") proposed revisions to NR chapter 439. This chapter establishes recordkeeping, testing and inspection requirements for DNR air permittees, including for businesses in Wisconsin. Specifically, these comments are submitted following the release of WDNR's latest version of its proposed changes on September 8, 2023. These comments highlight ongoing areas of concern for the regulated community.

WMC is the largest general business association in Wisconsin, representing approximately 3,800 member companies of all sizes, and from every sector of the economy. Since 1911, our mission has been to make Wisconsin the most competitive state in the nation to do business. This mission includes advocating for a regulatory environment that does not unduly burden Wisconsin businesses.

WPC is the premier trade association that advocates for the papermaking industry before regulatory bodies, and state and federal legislatures to achieve positive policy outcomes. WPC also works to educate the public about the social, environmental, and economic importance of paper, pulp, and forestry industries in Wisconsin and throughout the Midwest.

The pulp and paper sector employs over 30,000 people in Wisconsin and has an annual payroll of \$2.5 billion. Wisconsin is the number one paper-producing state in the United States, with the output of paper manufactured products estimated to be over \$18 billion.

Many members of WMC and WPC operate in accordance with WDNR-issued air permits and are subject to NR 439 requirements. Thus, we appreciate the opportunity to submit these written comments.

Additionally, WMC and WPC request a meeting with WDNR to discuss the NR 439 rulemaking and expand on our specific concerns described herein.

I. Introduction: Informational Background on DNR's Technical Advisory Committee and Stakeholder Participation

WDNR formed its NR 439 Technical Advisory Committee (TAC) in March 2023, and scheduled three one-hour meetings in April. The committee was formed following requests by WMC, WPC, and other stakeholders. Due to extensive feedback from stakeholders, the WDNR ultimately held nine virtual meetings. The last meeting was held in June of 2023.

During this same time period, WMC held seven meetings of the WMC NR 439 Working Group to gather feedback from members on the WDNR's proposed changes to NR 439. WPC was an active participant at many of these meetings. In addition, WPC obtained feedback from its members throughout the TAC process.

DNR shared three drafts of proposed rule language with the NR 439 TAC. Initial draft language was shared with the committee on Wednesday, March 29; a second draft was provided on Thursday, June 1; the third (and current) draft was provided on September 8, 2023.

The TAC included representatives from WMC, WPC, Wisconsin Utilities Association, a foundry representative, a printer representative, and an environmental consultant. In addition, several DNR staff participated in the TAC meetings. An environmental representative was invited to attend the TAC meetings but declined to participate. Moreover, a representative from EPA Region 5 was invited to join the meetings, but (to the best of our knowledge) did not participate.

WMC and WPC appreciate DNR's formation of its TAC, and the opportunity for the regulated community and others to recommend changes, ask questions, and raise concerns with proposed changes. WMC and WPC believe the TAC allowed for productive discussions that resulted in several proposed changes that will be beneficial, if ultimately implemented.

However, the most recent version of the proposed changes that was provided to TAC members is not a consensus document, nor is this version endorsed by WMC or WPC. When WDNR staff concluded the TAC meetings in June, WDNR acknowledged that they were still working on key sections of the rule (such as addressing credible evidence under NR 439.01). The version of the rule shared with the NR 439 TAC on September 8, 2023 still creates significant issues for the regulated community.

In addition, WDNR staff invited stakeholders to supplement their extensive feedback provided during the committee meetings with written comments. WMC and WPC appreciate and accept that offer with this comment submission.

This is the 4th time that WMC has submitted written comment on this NR 439 rulemaking, not including WMC's initial petition for rulemaking in September 2021 and prior comments on WDNR's unlawful 2021 Next Business Day Deviation Guidance. In addition, WPC also commented

on the Next Day Deviation Guidance, advocating for WDNR to open NR 439 for revision, testified at a WDNR stakeholder meeting outlining concerns regarding NR 439, and provided comments to the NRB on the scope statement for this rulemaking.¹ The reason for this extensive engagement with WDNR is due (in part) to some of the outdated and burdensome provisions currently in NR 439. Multiple provisions provide little or no environmental benefit while imposing a significant burden on the regulated community.

Moreover, this rulemaking is necessary to bring NR 439 into conformance with state law. As noted in the scope statement for this rulemaking (SS 047-22), s.285.17(4) requires DNR to promulgate rules that “simplify, reduce, and make more efficient” requirements for minor sources that are not required to have permits under the Clean Air Act. Additional statutory provisions – including but not limited to s.285.11(11) and s. 285.27(1) – also apply and require WDNR to both consolidate air emission reporting obligations and generally prohibit WDNR from imposing emission reporting requirements beyond what is authorized by federal law.

These comments summarize key, unresolved issues with WDNR’s proposed NR 439 revisions. This is not an all-inclusive list of concerns with the proposed rule. Many of these points were already expressed directly to WDNR staff during the meetings. WMC and WPC anticipate providing additional comments during the formal comment periods, as provided by ch. 227 rulemaking requirements.

II. NR 439 needs to incorporate language for the “Credible Evidence Rule” that allows a source to utilize any credible evidence to demonstrate compliance – consistent with federal law.

The federal “credible evidence rule” generally allows the DNR to use “any credible evidence” to demonstrate noncompliance with an emission limitation. Critically, it also allows a permitted source to use “any credible evidence to demonstrate compliance.” Per federal law, the EPA prevents state implementation plans from precluding “the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with application requirements if the appropriate performance or compliance test had been performed.” *See 40 CFR 51.212(c).*

Also, EPA has addressed the scope of the credible evidence rule on several occasions in other contexts. For example, in a July 28, 1998, letter to the Indiana Department of Environmental Management,² EPA noted that Indiana had been including language in permits that may preclude the use of credible evidence. Specifically, EPA stated that:

“Credible evidence has also gained national significance because the language can be construed as allowing only specified testing and monitoring methods to be used to demonstrate violations of **or compliance with permit terms and conditions**

¹ Copies of prior comments submitted by WMC and WPC on this rulemaking are available upon request.

² This 1998 EPA letter is included as an enclosure to our comments.

(emphasis added). However, as underscored by the credible evidence rule...the Clean Air Act provides that USEPA, the State, and citizens, **including the source itself (emphasis added)**, may use credible evidence for these purposes. “

Wisconsin currently incorporates its version of the credible evidence rule within NR 439.06(1). The last sentence states the following:

“Notwithstanding the compliance determination methods which the owner or operator of a source is authorized to use under this chapter, the department may use any relevant information or appropriate method to determine a source’s compliance with applicable emission limitations.”

Notably, the current code fails to explicitly state that other parties besides DNR can use “any credible evidence.” However, DNR has previously interpreted state code to allow other parties to use credible evidence to determine permit compliance. In a 2007 letter from DNR’s Bureau of Air Management to EPA’s Region 5,³ DNR staff stated that “WDNR does not interpret this language to limit the types of evidence which may be used by other parties seeking to enforce air pollution control requirements.”

Moreover, Wisconsin air permits contain language in “PART II: General Permit Conditions for Direct Stationary Sources” that indicate that credible evidence is not limited to use by DNR. This provision provides:

Credible Evidence

“Notwithstanding the compliance determination methods which the owner or operator of a source is authorized to use under this permit, any relevant information or appropriate method may be used to determine a source’s compliance with applicable emission limitations.”

The use of credible evidence is not restricted to DNR under this provision. Thus, this language would allow a source to provide credible evidence demonstrating compliance with emission limitation notwithstanding compliance demonstration methods specified in the permit. Moreover, allowing a source to provide credible evidence demonstrating compliance is not inconsistent with the existing or proposed credible evidence provisions in NR 439. Those provisions merely indicate that DNR may consider credible evidence. The provisions do not prohibit the use of credible evidence by a source.

In its first revision of the rule (from March 2023), WDNR proposed moving the credible evidence language from NR 439.06(1) to NR 439.01(3). However, this proposed NR 439.01(1) simply incorporated the existing language, and is silent on the use of credible evidence by sources. Such language creates unnecessary confusion for regulated entities, who may not be aware that federal

³ This 2007 DNR letter to the EPA is included as an enclosure to these comments.

law affords them the same opportunity to demonstrate permit compliance as provided to DNR staff.

This issue was repeatedly raised during the TAC meetings. Stakeholders provided two solutions. The first suggestion shared was the following (denoted in red):

“Notwithstanding the compliance determination methods which the owner or operator of a source is authorized to use under this chapter, the department or source may use or consider any relevant information or appropriate method to determine a source’s compliance with applicable emission limitations.”

Alternatively, a second solution suggested by stakeholders was to simply incorporate the aforementioned “PART II” permit language into NR 439.

However, in the September 2023 version of the rule, DNR staff opted to retain the existing “credible evidence” language in NR 439.06(1), and removed the proposed NR 439.01(3). DNR also proposed the following change within NR 439.03(1)(c)(1)(d):

“**Identification of the** ~~The methods or other means~~ used for determining the compliance status **with each term and condition of the operation permit during the certification period of the stationary source, currently and over the previous 12 month period.**

It is unclear to our organizations the practical implications of this proposed change. Does WDNR intend to limit or prohibit “after the fact” demonstrations of compliance if they were not previously identified by the permittee? If so, this appears to be an unlawful limitation of the EPA’s credible evidence rule, since it would limit the use of some types of compliance demonstrations by a source.

In summary, the proposed changes by WDNR to the credible evidence rule still fall short of what WMC, WPC, and others in the regulated community have consistently requested throughout this process: Explicit language in the code that acknowledges a source’s right to use any credible evidence to demonstrate compliance with a permit condition. In fact, the proposed change may restrict a source’s ability to use credible evidence, and represents a step backward.

Thus, WMC and WPC urge WDNR to modify the proposed NR 439 to incorporate a version of the credible evidence rule into state code that is fully consistent with federal law. This could be accomplished by adding the phrase “or source” as described above or incorporating the relevant permit language into NR 439.

III. Rule Should Clarify that Compliance Demonstrations are not Independently Enforceable by WDNR.

Related to the credible evidence rule, WMC and WPC are very concerned that WDNR enforcement staff is not allowing sources to properly rebut a violation allegation if they appear to fail a compliance demonstration. In particular, WDNR enforcement personnel have claimed that compliance demonstrations specified in permits are independently enforceable. This

interpretation undermines the utility of the EPA's credible evidence rule, and thus may be unlawful.

Current air permits have three columns. The first column prescribes the numeric emission limit, the second column outlines the compliance demonstration used by the source to meet the limit in the 1st column, and the third column refers to recordkeeping. Through discussions with members, we've learned that WDNR staff has adopted the position that the 2nd column of compliance demonstrations is *independently enforceable*. In other words, a source that fails to meet the compliance demonstrations prescribed in column two is subject to a notice of noncompliance, notice of violation, or other enforcement actions by WDNR, even if a source demonstrates compliance with the applicable emission limit.

If a source can only use the compliance demonstrations outlined in "Column 2" of the permit, it is unable to use "any credible evidence" to demonstrate compliance. To the extent that DNR's interpretation violates the EPA's credible evidence rule, this is a violation of federal law.

Moreover, WMC and WPC are unclear as to when WDNR made this interpretation. To the extent that WDNR is making a *new* interpretation of the credible evidence rule, WDNR's actions necessitate rulemaking prior to implementation. Under s. 227.10(1), "each agency shall promulgate as a rule each statement of general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute." Thus, prior to adopting a new interpretation of requirements associated with NR 439, WDNR must utilize rulemaking. Absent that, such a policy is an unpromulgated rule and its enforcement is unlawful.

To address this, and to ensure conformance to state and federal law, WMC and WPC urge WDNR to clarify within the proposed NR 439 that "Column 2" of air permits are compliance demonstrations, and perceived violations can be rebutted with "any credible evidence" provided by the source. WMC and WPC would welcome the opportunity to meet with WDNR to expand on this concern and collaborate with WDNR on appropriate language to include in the rule.

IV. Applicability and Purpose

The applicability of NR 439 is prescribed in the current NR 439.01(1), which states the following:

"Applicability. This chapter applies to all air contaminant sources and to their owners and operators. For sources subject to an emission standard under chs. NR 460 to 469 or under 40 CFR part 63, the requirements of ch. NR 460 apply in addition to the requirements of this chapter. In the case of any conflict between applicable provisions under chs. NR 460 to 469 and provisions of this chapter, the provisions under chs. NR 460 to 469 shall apply, this chapter notwithstanding."

DNR staff has sometimes interpreted the above provision to mean that requirements in NR 439 *are in addition to* applicable federal requirements. This creates confusion when federal requirements conflict with state requirements. For example, federal standards may occasionally provide for one type of compliance test for sources, whereas NR 439 may prescribe a different

compliance test. In this event, the source is left with a no-win situation – as the source must decide whether to comply with state or federal law.

Unfortunately, the applicability section in the proposed NR 439.01(1) simply exacerbates the current confusion for the regulated community. As modified, it states the following:

“APPLICABILITY. This chapter applies to all air contaminant sources and to their owners and operators. For sources subject to an emission standard under 40 CFR part 60 through part 63, the applicable requirements of 40 CFR part 60 through part 63 apply in addition to the requirements of this chapter.”

There are several problems with WDNR’s approach. First, the proposed language appears to make it more explicit that the requirements contained within NR 439 *are in addition to* federal requirements. This is in direct conflict with 285.27(1)(a) and (2)(a) which requires that WDNR adopt by rule standards, “including administrative requirements,” consistent with any federal NSPS or NESHAP unless WDNR makes certain findings of necessity that are not at issue here.

Second, the proposed language deletes the allowance provided under current law in the event of a conflict between requirements in NR 439 and NR 460-469. Under current law, in the event of such a conflict, the requirements in NR 460-469 prevail; that exception is removed in the proposed language.

Moreover, the proposed NR 439 retains the current language in the current NR 439.01(2), which notes that “Individual chapters of chs. NR 400 to 499...may contain additional requirements.”

In summary, the proposed applicability and purpose language appears to exacerbate the overlapping requirements rather than simplifying them. If enacted as proposed, permitted sources may need to consider and follow *three* sets of requirements instead of *one*: Federal requirements, NR 439 requirements, and any other requirements found throughout NR 400-499.

Again, concerns with the applicability provisions within NR 439.01 were raised multiple times by stakeholders during meetings of the NR 439 TAC. However, no improvements were made to this section by DNR staff in the latest proposed draft.

To address these issues, WMC and WPC recommend the following changes to NR 439.01:

- Clarify that the administrative requirements in NR 439 are not applicable if a source is already regulated under a NSPS or NESHAP.
- Clarify that in the event of a conflict with federal code and NR 439, the federal code shall prevail.
- Clarify that in the event of a conflict with NR 439 and another chapter of NR 400-499, the other chapter shall prevail.

These changes would provide important regulatory certainty to permitted entities. They would allow them to follow one set of regulations instead of three, and ensure that a source can comply

with federal requirements without inadvertently running afoul of state requirements. Such changes are also wholly consistent with goals outlined in the rule’s scope statement (SS 047-22) to “streamline” and “make more efficient” the requirements of NR 439.

V. Definitions

a. Definition of Deviation

DNR’s proposal contains a definition of “deviation.” “Deviation” is defined as “any instance in which a source is not in conformance with a permit requirement or applicable regulation.” “Deviations” are subject to the reporting requirements contained in the current rule, as well as the proposed rule.

WDNR’s initially proposed language stipulated that “deviations may include violations, exceedances, and excursions.” This language was removed from the September 2023 version.

Nonetheless, DNR should define the terms “violations,” “exceedances” and “excursions.” The terms “exceedances” and “excursions” are used multiple times throughout NR 439. Both “exceedance” and “excursion” are defined in 40 CFR 64.1:

- *Exceedance*: “a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates the emissions...are greater than the applicable standard...consistent with any averaging period....”
- *Excursion*: “a departure from an indicator range established for monitoring ...consistent with any averaging period....”

DNR should further clarify in the proposed rule that “excursions” and “exceedances” are not violations, and therefore not subject to DNR enforcement action, if it is demonstrated by DNR or the source that an emission standard was not exceeded. Moreover, exceedances that are addressed promptly should not be considered a violation.

b. Definition of “Good Air Pollution Control Practices” and “Malfunction Prevention and Abatement Plans (MPAPs)”

Proposed NR 439.02(6s) defines “Good Air Pollution Control Practices” as:

“Methods, procedures, and practices that are based on scientific fact(s), reflect generally recognized and accepted practices and standards. Good Air Pollution Control Practices may include monitoring, inspecting, operating procedures, maintenance, calibration, and training.”

Proposed NR 439.11(4) requires that:

“The owner or operator shall operate and maintain any source, associated air pollution capture and control equipment, and monitoring equipment in conformance

with good air pollution control practices to minimize the possibility for the exceedance of any emission limitations.”

In contrast, the current requirement contained in NR 439.11(4) provides that air pollution control equipment be operated in conformance with “good engineering practices.” Thus, the proposed change appears to allow DNR to impose additional requirements for a source beyond “air pollution control equipment,” and expands requirements beyond “good engineering practices.”

WMC and WPC have significant concerns regarding the expansion of these requirements. The broad and vague definition “good air pollution practices,” along with the expansion to cover items beyond pollution control equipment, makes it impossible for a source to identify what would meet the requirements of this mandate. Moreover, the vagueness of this definition makes it very likely that such language would be inconsistently applied by DNR staff. This language appears to be an ill-defined “catch all” that creates significant regulatory uncertainty for regulated sources.

Also, the proposed changes also include a requirement found in NR 439.11(1s)(d) requiring sources to keep a list of “all materials and spare parts that will be maintained in inventory for the source....” The requirement to include *all* material and parts inventory parts for the source is overly inclusive and unnecessary. Paper facilities and other large manufacturers are likely to have extensive inventories. The reference to “source” should be eliminated from this provision, thus ensuring the requirement only applies to air pollution control and monitoring equipment.

VI. Deviation reporting changes need to conform to state & federal law.

Within the proposed NR 439.03, WDNR seeks modifications that would change the current “Next business day deviation reporting” guidance put forward by WDNR on August 31, 2021. In its place, DNR proposes a two-tiered approach for reporting source deviations from permit requirements:

- Per the proposed NR 439.03(4)(a), a source must contact DNR regarding “...any malfunction or other unscheduled event at the source...which causes any emission limitation...to be exceeded,” within two business days. Within ten calendar days, the source must file a report with DNR, addressing the cause and corrective actions taken.
- Per the proposed NR 439.03(4)(am), “any deviation” from permit requirements “not reported under sub. (4)(a)” must be reported to DNR within 30 calendar days of when the source “knew or should have known of the deviation.” In addition, the source must report corrective actions taken, as well as other information.

The proposed changes to NR 439.03(4) appear to be a welcome first step to addressing the concerns of the regulated community related to the current overly burdensome deviation reporting requirements. WDNR proposes a deviation reporting system that mirrors – in some respects – less burdensome requirements in neighboring Michigan. This change was suggested by members of the TAC and is a positive change for the regulated community.

In addition, we support the elimination of language that would have required a source to report malfunctions that *may cause* an emission limitation. Such language was in an earlier rule draft, but removed in the September 2023 draft shared with the NR 439 TAC.

However, to conform to state and federal law, additional modifications to this section of the rule are needed. While our members support a significant number of alterations, in particular WDNR should consider the following:

- The proposed trigger for a “two business days” report under NR 439.03(4)(a) – “unscheduled event...which causes any emission limitation...to be exceeded” – is too broad and should be narrowed.
- The proposed “30 calendar days” report under NR 439.03(4)(am) should be eliminated or consolidated with existing reports.

WMC and WPC are troubled that the proposed deviation reporting requirements continue to go far beyond what is required by EPA. First, Part 71 of the Clean Air Act simply requires notice within two days “for emissions of any regulated air pollutant...that continue for more than two hours in excess of permit requirements.” *See 40 CFR 71.6(a)(3)(iii)(B)(2)*. The WDNR’s proposal to require reporting of any “unscheduled event” that causes an emission limitation exceedance, regardless of the duration of the exceedance, is a substantially higher bar than required under EPA-issued permits.

Further, under Part 71 for “all other deviations from permit requirements,” major sources are simply required to report such deviations as part of their six-month reporting. *See CFR 40.71.6(a)(iii)(B)(2-3)*. Conversely, WDNR proposes requiring reporting within 30 days, which is a much higher threshold.

WDNR must go further to meet multiple statutory obligations under this rulemaking. First, s. 285.17(4) requires WDNR to promulgate rules that “simplify, reduce, and make more efficient” requirements for minor sources that are not required to have permits under the Clean Air Act (CAA). However, the proposed deviation reporting requirements under NR 439.03(4) do not attempt to make any distinction between “major sources” with required CAA permits and “minor sources” not required to have such permits. DNR should modify the proposed requirements to remove new reporting burdens on minor sources, such as the 30 day reporting under NR 439.03(4)(am).

In addition, under s. 285.11(11), WDNR is required to “coordinate the reporting requirements...in order to minimize duplicative reporting requirements.” This statutory requirement applies to both major and minor sources. Thus, DNR should remove the new 30-day reporting for *all sources*, as it is duplicative to already required reports.

VII. E-mail submission of required reports should be permitted.

The proposed NR 439 contains various provisions that generally require submission of required forms through WDNR’s “electronic submittal system” or a hard copy submission. Examples include – but are not limited to – NR 439.03(1)(am), NR 439.03(10s), and NR 439.06.

WMC and WPC appreciate that the proposed NR 439 generally allows submission of hard copy reports. However, with limited exceptions, the proposed rule does not allow sources to submit required reports via e-mail. E-mail submittal is a convenient option for sources, and may also be the only viable option if WDNR’s electronic system malfunctions or otherwise goes offline. Presumably, it is also a more convenient option for WDNR staff than receiving and processing hard copy reports from sources.

We urge WDNR to revise the rule to allow submittal of reports via e-mail. To minimize confusion for sources and WDNR, the rule could include language specifying a dedicated e-mail address in which such reports must be submitted.

VIII. WDNR should clarify requirements for compliance emission testing.

Proposed NR 439.07(1)(a-c) stipulates that compliance emission tests must be performed with the equipment operating “at capacity or as close to capacity as practicable,” “under conditions of worst case emissions,” or “under other conditions” specified in a requirement or approved by WDNR. During TAC discussions, WDNR originally proposed replacing the current “capacity-based emissions” requirement with a “worst-case emissions” requirement. This was a problematic change, and WMC and WPC appreciate the subsequent addition of language allowing capacity-based emissions testing to demonstrate compliance.

However, under the proposed language, it is unclear which entity – the source or WDNR – shall specify whether the source shall use emissions-based testing or capacity-based testing. This option should be retained by the source. Thus, WMC and WPC urge WDNR to modify the language within the proposed NR 439.07(1) to stipulate that **the source** may select capacity-based or worst case emissions testing for the purposes of complying with this section.

IX. WDNR may consider expediting rulemaking timeline.

At the last WDNR NR 439 TAC meeting on June 15, 2023, WDNR outlined a tentative timeline for the rulemaking. The timeline indicated the rule would not be presented to the Natural Resources Board (NRB) until May 2024 at the earliest. The next step would be review by the Legislature.

The Legislature is scheduled to hold its final general business session on April 11, 2024, for the 2023-2024 legislative session. Since legislative review cannot occur when the Legislature is adjourned, this would mean the earliest the Legislature could review the rule is January 14, 2025. Per WDNR’s timeline, this delay would result in the rule not taking effect until August 2025.

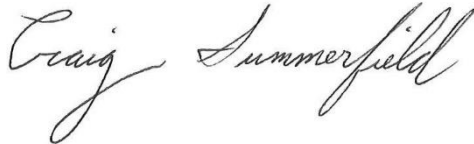
If WDNR addresses the aforementioned outstanding issues, WMC and WPC would urge WDNR to expedite its rulemaking timeline and present the draft rule to NRB in March or April, instead of

May. This would allow the legislative review period to occur in 2024 instead of 2025, and potentially allow the rule to take effect in 2024.

X. Conclusion

Thank you for your consideration of our comments. WMC and WPC welcome the opportunity to collaborate with WDNR to implement these changes, and look forward to hearing back in reference to our scheduling request. If you have any questions, do not hesitate to contact us.

Sincerely,



Craig Summerfield
Director of Environmental & Energy Policy
Wisconsin Manufacturers & Commerce



Patrick Stevens
Vice President, Environment & Regulatory Affairs
General Counsel
Wisconsin Paper Council

Enclosures:

U.S. EPA Letter to Indiana Department of Environmental Management; July 28, 1998
WDNR Letter to U.S. Environmental Protection Agency; October 23, 2007